

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

LAZ Parking LTD, LLC,

Complainant;

-VS-

Commonwealth Edison Company,

Respondent .

Complaint pursuant to Sections 9-250 and 10-0108 of the Illinois Public Utilities Act and Section 200.170 of the Rules of Practice of the Illinois Commerce Commission.

Chicago, Illinois
March 15, 2016

Met pursuant to notice at 9:30 a.m.

BEFORE :

Terrance A. Hilliard, Administrative Law Judge.

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1		<u>I N D E X</u>				
2	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-direct</u>	<u>Re-cross</u>	<u>By Examiner</u>
	RICHARD	228				Mr. Neilan
3	BERNHARDT		236			Ms. Barrett
4				336		Mr. Neilan
					338	Ms. Barrett
5	THOMAS R.	342				Ms. Barrett
	RUMSEY, JR.		346			Mr. Neilan
6				394		Ms. Barrett
7	MARISA SPITZ	397				Ms. Barrett
8			401			Mr. Neilan
9		<u>E X H I B I T S</u>				
10	<u>Number</u>	<u>For Identification</u>			<u>In Evidence</u>	
	ComEd Cross Exhibit No. 2				340	
11	ComEd Exhibit No. 1.0				346	
12	ComEd Exhibit No. 1.01				346	
13	ComEd Exhibit No. 1.02				346	
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1 E X H I B I T S C O N T.

2	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
3	ComEd Exhibit No.	3.01	401
4	ComEd Exhibit No.	3.01	401
5	ComEd Exhibit No.	3.02	401
6	ComEd Exhibit No.	3.03	401
7	ComEd Exhibit No.	3.04	401
8	ComEd Exhibit No.	3.05	401
9	ComEd Exhibit No.	8.0	401
10	ComEd Exhibit No.	2.0	412
11	ComEd Exhibit No.	2.01	412
12	ComEd Exhibit No.	2.02	412
13	ComEd Exhibit No.	2.03	412
14	ComEd Exhibit No.	4.0	412
15	ComEd Exhibit No.	4.01	412
16	ComEd Exhibit No.	4.02	412
17	ComEd Exhibit No.	4.03	412
18	ComEd Exhibit No.	4.04	412
19	ComEd Exhibit No.	4.05	412
20	ComEd Exhibit No.	4.06	412
21	ComEd Exhibit No.	6.0	412
22	ComEd Exhibit No.	7.0	412

1 E X H I B I T S C O N T.

2	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
3	LAZ Parking Exhibit No. 1.1		415
4	LAZ Parking Exhibit No. 1.2		415
5	LAZ Parking Exhibit No. 1.3		415
6	LAZ Parking Exhibit No. 1.4		415
7	LAZ Parking Exhibit No. 1.5		415
8	LAZ Parking Exhibit No. 4.2		415

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1 JUDGE HILLIARD: On behalf of the Illinois
2 Commerce Commission I call up Docket 12-0324, which
3 is LAZ Parking, LTD, LLC, versus Commonwealth Edison
4 Company, Respondent. Can the parties identify
5 themselves for the record, please.

6 MR. NEILAN: Yes. Paul Neilan, N-e-i- --

7 JUDGE HILLIARD: Could you --

8 MR. NEILAN: -- oh, I'm sorry --

9 JUDGE HILLIARD: -- turn that microphone on and
10 bring it close to your face please.

11 MR. NEILAN: Sure is that --

12 JUDGE HILLIARD: That's good.

13 MR. NEILAN: Paul Neilan, N-E-I-L-A-N, Law
14 Offices of Paul Neilan, 33 North LaSalle Street,
15 Suite 3400, Chicago, Illinois, telephone's
16 312-580-5483, appearing for petitioner LAZ Parking.

17 MS. BARRETT: On behalf Commonwealth Edison
18 Company, Ronit Barrett of Eimer Stahl, LLP, 224 South
19 Michigan Avenue, Suite 1100, Chicago, Illinois 60604.

20 MR. PERKINS: Also on behalf of Commonwealth
21 Edison Company, Bradley R. Perkins, 10 South
22 Dearborn, Suite 4900, Chicago, Illinois 60603.

1 JUDGE HILLIARD: Just before we start, where
2 you're -- that corner of the room where you're
3 sitting, Mr. Neilan, and I presume your witness, is
4 kind of an acoustic black hole.

5 MR. NEILAN: Okay.

6 JUDGE HILLIARD: And so if I notice that I'm
7 unable to hear you, then I'm going to bring it to
8 your attention.

9 MR. NEILAN: Sure thing. I will move this over
10 here if that's set work.

11 JUDGE HILLIARD: That appears to be fine.

12 All right. Preliminary matters here,
13 who wants to start?

14 MR. NEILAN: Now, I've got a couple of motions
15 that are pending and that, of course, had to be filed
16 in short order before this hearing date because we
17 have filings that were made by the opponent.

18 JUDGE HILLIARD: All right. I've kind of
19 kicked these things around here and it seems to me
20 that there are really two relevant issues as far as
21 the outcome of this thing. One is whether or not
22 proper metering -- proper testing was done during

1 that period prior to 2010, and then the other issue
2 is from whence does the \$36,000 in delivery services
3 charge arise? And you know, there is a lot of
4 back-and-forth about the admissions, the motion
5 drafting that's gone on about the admissions, and
6 rather than rehash all of this, I think I'm just
7 going to take them under advisement.

8 I know that may complicate your day a
9 little bit, but it seems to me that from your point
10 of view, Mr. Neilan, the fact that they're -- the
11 company is making statements that may or may not
12 conflict with Commission regulations as being our
13 interpretation of how regulations ought to be
14 applied, gives you a lot of room for
15 cross-examination and a lot of room for argument. I
16 don't think your prosecution is impeded by --
17 substantially by that -- those aspects of the case.

18 In regard to the telephone-book-size
19 appendix that ComEd has filed here, I think it's --
20 their point of this is that Supreme Court Rule 216
21 has been amended and the amendment is retroactive.
22 And since kind of the crux of the admissions issue

1 concerns the application of Rule 216 to these
2 proceedings, I don't think we can parse this out and
3 say that the complainant can use the admissions, but
4 that the respondent can't ask the Commission to take
5 judicial notice of amendments to the rule that
6 afforded the opportunity to bring the admissions.

7 So I'm not going to strike their
8 response to your Motion in Limine.

9 So with that being said, do we have
10 anything else to discuss?

11 MR. NEILAN: Yes. Your Honor, Paul Neilan, for
12 LAZ Parking, a question. You know, earlier you
13 mentioned in terms of the scope of cross-examination
14 of ComEd witnesses who are giving their opinions on
15 legal matters and regulations and, you know,
16 elsewhere. Again, as I mentioned in our motion, we
17 are concerned that if I start to cross-examine these
18 witnesses, then ComEd is going to say, as they have
19 before, that I'm asking for a legal conclusion or a
20 legal opinion, and therefore I can't ask the
21 question.

22 JUDGE HILLIARD: Well I'm going to rule on

1 those, and I'm going to do my best to give everyone a
2 fair hearing. And to the extent that what they have
3 already stated might be construed as a legal
4 conclusion, I think that the -- kind of the key to
5 this is that I and the person who decides what the
6 law and the facts are, at least at the preliminary
7 level here.

8 And I will give legal conclusions and
9 legal opinions made by nonlawyers their proper
10 weight. But it's kind of part and parcel to this
11 that these -- ComEd's witnesses have their own
12 working definition of how they applied regulations
13 from time to time.

14 And I think that the Commission is
15 informed by -- to a certain extent by how they
16 applied Commission regulations. Whether or not they
17 are legal conclusions or not is something we can sort
18 out at a later time.

19 But I'm not going to -- you know,
20 having certain legal opinions, I'm not going to bar
21 you from asking questions about those legal opinions
22 unless I think you are too far afield. Okay?

1 MR. NEILAN: Well, I still have two concerns.

2 First is that if ComEd's witnesses are
3 going to give these statements on legal matters, for
4 me to effectively cross-examine those witnesses, I
5 have to have a free hand to refer to and question
6 them on other sections of the Illinois Administrative
7 Code or other matters that relate to that because
8 they are venturing into this area, and there are
9 other defined terms. For example, if one of the
10 witnesses says, Yeah this is an inspection or a test,
11 and those terms are used in other contexts in other
12 sections, I can't be limited to just the section that
13 the witness is referring to. That is, I think,
14 highly prejudicial and tremendously unfair. It would
15 be if I'm prohibited from doing that.

16 JUDGE HILLIARD: Well you can ask the question.
17 But if it's in an area outside their expertise, they
18 may not be able to answer the question. You've still
19 got Cross-Examination, and you've still got your
20 legal arguments and briefs. You can point out the
21 inconsistency between what they're saying here and
22 what the code says there.

1 So I don't really see it as a -- I
2 think it gives you advantages rather than
3 disadvantages.

4 MR. NEILAN: That's fine as long as I have that
5 freedom to question them on related sections of the
6 regulation.

7 What I'm specifically referring to,
8 well, maybe not specifically, but if the witness is
9 testifying to something within part 410 of the
10 regulations on metering service, and they're only
11 referring to, maybe, 1, 2 or 3 sections, I get to
12 cross-examine them on all part 410 or other matters
13 that relate to metering.

14 JUDGE HILLIARD: You can certainly ask the
15 question. All right?

16 MR. NEILAN: Okay. Well, I...

17 JUDGE HILLIARD: I mean, if they tell you that
18 they don't know the answer to the question --

19 MR. NEILAN: If they don't know the answer --

20 JUDGE HILLIARD: -- that it's outside their
21 area of expertise, there's nothing I can do about
22 that.

1 MR. NEILAN: I understand that. I understand
2 that. I just don't want to get an objection --

3 JUDGE HILLIARD: If they establish that they
4 normally this and they don't know that...

5 MR. NEILAN: I don't want to have an objection
6 on scope that this witness --

7 JUDGE HILLIARD: You are not going to have a
8 sustained objection on scope, but we're not going to
9 waste a lot of time asking questions they don't know
10 the answers to.

11 MR. NEILAN: That's perfectly fine. I don't
12 want to do that either.

13 The second concern that I have is that
14 our expert witness has not given testimony on similar
15 issues because my own view is that I don't think it's
16 appropriate to testify on those matters from the
17 witness stand.

18 So I would ask for time to have direct
19 examination on some of the same issues and add that
20 to the record because that would balance things out.
21 Otherwise, it's not a level playing field.

22 We've stayed away from an issue on

1 purpose. To observe that can --

2 JUDGE HILLIARD: How do you feel about that,
3 Counsel?

4 MS. BARRETT: I completely disagree with that.
5 I think his witness has specifically testified about
6 the exact same things, like, whether something is a
7 test or an inspection.

8 So I did read in your motion that it
9 is your opinion you have stayed away from those
10 subjects, but I don't think you have. And I don't
11 think it would be fair to give you additional direct
12 examination today.

13 JUDGE HILLIARD: How much additional Direct
14 Examination do you have.

15 MR. NEILAN: I would say it would probably be,
16 maybe, between 5 and 10 minutes because there are
17 only a few questions that I really want to zero in
18 on.

19 JUDGE HILLIARD: All right, subject to your
20 objection, I'm going to allow him to 5 to 10 minutes
21 of examination. And we'll, if we're ready to begin,
22 we can start with that.

1 MR. NEILAN: I need to pull some stuff up on my
2 screen here.

3 JUDGE HILLIARD: In the meantime, will all of
4 you people that are likely to testify, raise your
5 hand to be sworn.

6 Do you promise to tell the truth, the
7 whole truth, and nothing but the truth, so help you
8 God?

9 (Chorus of ayes.)

10 RICHARD BERNHARDT,
11 called as a witness herein, having been first duly
12 sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY

15 MR. NEILAN:

16 Q Do you happen to have a 410.155 with you?

17 A Yes.

18 Q Okay, pull it up.

19 Okay. Mr. Bernhardt, if you would be
20 so good as to refer to Section 410.155 of the
21 Illinois Commerce Commission Regulations. This deals
22 with installation inspections.

1 JUDGE HILLIARD: Preliminarily, just a question
2 or two to identify the witness, please.

3 MR. NEILAN: Yes, sorry.

4 BY MR. NEILAN:

5 Q If you would please identify yourself
6 for -- your name and title, please.

7 A My name is Richard Bernhardt, and I'm the
8 president of John-Winston Engineers and Consultants.

9 JUDGE HILLIARD: And you were retained in this
10 case?

11 THE WITNESS: Yes, I have, by Mr. Neilan.

12 JUDGE HILLIARD: By Mr. Neilan. All right.

13 Now, you're the same witness who has
14 provided direct and surrebuttal testimony in this
15 matter?

16 THE WITNESS: Yes.

17 JUDGE HILLIARD: Okay. Go ahead.

18 BY MR. NEILAN:

19 Q In this section on 410.155, they refer --
20 the regulation refers to a post-installation
21 inspection, and is that something that you would
22 differentiate from a post-installation test?

1 A No.

2 JUDGE HILLIARD: I think he's already answered
3 that question in his testimony, hasn't he?

4 MR. NEILAN: Yes. Well I'm trying to follow
5 along with his testimony.

6 JUDGE HILLIARD: All right.

7 MR. NEILAN: But --

8 BY MR. NEILAN:

9 Q In terms of the post-installation
10 inspection as ComEd's witness Rumsey has defined it,
11 was he clear on the process that he followed for what
12 exactly is a post-installation inspection?

13 MS. BARRETT: I'm sorry, Your Honor, I would
14 like to object. This was in Mr. Rumsey's direct
15 testimony, and he had a chance to respond to this in
16 his surrebuttal. And it is not at all a legal
17 conclusion in the slightest. I think this has all
18 been covered.

19 JUDGE HILLIARD: How is that a legal
20 conclusion? How does your question incorporate a
21 legal conclusion?

22 MR. NEILAN: I don't believe it does

1 incorporate a legal conclusion.

2 JUDGE HILLIARD: Well, the plight of your
3 testimony here -- direct testimony is to respond to
4 legal conclusions by any ComEd witness. What legal
5 conclusion does this question respond to?

6 MR. NEILAN: We're looking at the
7 differentiation between an inspection and a test.

8 MS. BARRETT: He has addressed that in his
9 affidavit and in both pieces of his testimony
10 already.

11 JUDGE HILLIARD: All right. I'm going to let
12 you ask this question, but let's not be duplicative.

13 MR. NEILAN: All right. Well, I'll rephrase
14 the question.

15 BY MR. NEILAN:

16 Q Did you find witness Rumsey's explanation
17 of a post-installation inspection process to be
18 clear?

19 A No.

20 Q Okay. Thank you.

21 MR. NEILAN: That's all the questions I'll have
22 on the record.

1 JUDGE HILLIARD: All right.

2 Now the -- I guess the procedure is

3 going to be that you cross-examine the ComEd

4 witnesses.

5 MR. NEILAN: Yes.

6 JUDGE HILLIARD: Do you have an order that you

7 want to follow.

8 MR. NEILAN: I would prefer to go -- to start

9 with ComEd witness Rumsey if I may.

10 JUDGE HILLIARD: You're going --

11 MS. BARRETT: However you want to proceed is

12 fine.

13 I guess I understood that I would

14 be -- he would offer the direct of your witness --

15 JUDGE HILLIARD: I'm sorry.

16 Do you want to cross?

17 MS. BARRETT: Yes. I would like to cross

18 Mr. Bernhardt.

19 JUDGE HILLIARD: I'm sorry, my mistake. Please

20 proceed with your examination of this witness.

21 MS. BARRETT: Okay.

22

1 BY MS. BARRETT:

2 Q Good morning Mr. Bernhardt. My name is
3 Ronit Barrett and I will be cross examining you this
4 morning.

5 JUDGE HILLIARD: Now, this cross-examination is
6 only on -- first of all, if you have any questions
7 regarding his direct this morning.

8 MS. BARRETT: Oh, I do not have any questions
9 on his direct. I'm sorry. I thought -- so he has
10 not offered his prefile testimony yet?

11 JUDGE HILLIARD: No.

12 MS. BARRETT: Okay.

13 MR. NEILAN: No. Yeah, we need to do that.

14 MS. BARRETT: I thought they would offer their
15 prefile first.

16 JUDGE HILLIARD: That makes sense.

17 MS. BARRETT: I would cross. Then we would --

18 JUDGE HILLIARD: This all makes sense.

19 MR. NEILAN: Okay. Let me get back to the
20 record. Would you please state your name once more
21 please?

22 A Richard Bernhardt.

1 Q And are you the same Richard Berhardt who
2 previously gave direct testimony in the form of LAZ
3 Exhibit No. 1.0?

4 A Yes.

5 Q And in connection with your direct
6 testimony did you have certain exhibits attached to
7 that direct testimony, namely Exhibits 1 -- excuse
8 me -- 2.0 not 1.0?

9 A Yes.

10 Q 2.1 and 2.2?

11 A Yes.

12 Q And those exhibits -- okay, we'll go on to
13 the next.

14 And you also provided prefiled written
15 surrebuttal testimony in the form of LAZ Exhibit 3.0?

16 A Yes.

17 Q And attached as part of that surrebuttal
18 testimony, you submitted LAZ Exhibit 3.1?

19 A Yes.

20 Q Slides. And with regard to both the direct
21 testimony and that surrebuttal testimony, if I were
22 to ask you the same questions that were asked -- if I

1 were to ask you now the same questions that were
2 asked in that direct testimony, in that surrebuttal
3 testimony, would your answers be the same as in that
4 prefiled testimony?

5 A Yes.

6 Q And would your references to the exhibits
7 be to the same exhibits that were filed in connection
8 with that testimony?

9 A Yes.

10 Q Thank you. I think I will move to admit
11 it.

12 JUDGE HILLIARD: Any objections to the
13 admission of the exhibits?

14 MS. BARRETT: I -- we may have an objection to
15 exhibit 3.1, but I think what would probably be best
16 is to -- the objection would be under Evidence Rule
17 403, which is that evidence that may be relevant but
18 that is prejudicial because it is confusing should
19 not be admitted. I think what might make the most
20 sense is if you wait until after the cross to rule on
21 that.

22 JUDGE HILLIARD: All right. Subject to motion

1 after cross-examination, the exhibits will be
2 admitted into the record.

3 Now, you're tendering the witness for
4 cross-examination.

5 MR. NEILAN: I'm tendering my witness for
6 cross. I think I had said that.

7 CROSS-EXAMINATION

8 BY

9 MS. BARRETT:

10 Q Good morning again.

11 A Good morning.

12 Q Mr. Bernhardt, to begin I would like to ask
13 you a few general questions.

14 Would you agree with me that an expert
15 should not make statements that are not based in
16 fact?

17 A Yes.

18 Q And would you agree with me that an expert
19 should not reach conclusions that are not based in
20 fact?

21 A Yes.

22 Q And would you agree with me that an expert

1 should not opine on matters that are outside of his
2 expertise?

3 A Yes.

4 MR. NEILAN: Objection. I'm just wondering
5 where this is going because we're dealing with his
6 testimony. What specifically are you cross examining
7 him on? In his testimony? On facts or nonfacts?

8 MS. BARRETT: I don't have to relate every one
9 of my questions to exact words in his testimony. I
10 don't think that's an appropriate objection. I think
11 you're just interrupting.

12 JUDGE HILLIARD: All right. Objection is
13 overruled at this point.

14 BY MS. BARRETT:

15 Q And would you agree with me that an expert
16 witness should be careful in drawing distinctions
17 between terms?

18 A Yes.

19 Q And would you agree with me that an expert
20 should be careful interpreting terms to give them the
21 proper meaning in the context at issue?

22 A Yes.

1 Q Okay. Now, I would like to speak with you
2 a little bit about your surrebuttal testimony, which
3 is LAZ Exhibit 3.0. Did you have a copy of that in
4 front of you?

5 A Yes, I do.

6 Q Okay.

7 MS. BARRETT: Your Honor do you have a copy of
8 that or would you like one?

9 JUDGE HILLIARD: I think I have one. Let me
10 see if I can find it.

11 MS. BARRETT: I'm just waiting.

12 JUDGE HILLIARD: If you've got a copy handy...

13 MS. BARRETT: We do.

14 JUDGE HILLIARD: I think I have one up here,
15 but...

16 MR. NEILAN: I don't have an extra copy.

17 JUDGE HILLIARD: Thanks.

18 BY MS. BARRETT:

19 Q Okay. Please turn to page 2.

20 And at line 226 about halfway in that
21 line you state, "With regard to usage the purpose of
22 a test of an electrical metering system is to

1 determine whether the usage recorded by the
2 customer's electricity meter, also referred to as the
3 meter under test, is correct for a given amount of
4 energy as compared to the usage recorded by working
5 standard or a portable test meter standard."

6 JUDGE HILLIARD: What line are you on?

7 MS. BARRETT: Starting at line 26, about
8 halfway through.

9 BY MS. BARRETT:

10 Q Did I read that accurately?

11 A Yes.

12 Q I want to be clear on what you are
13 referring to here. You did not refer to a meter, you
14 referred to an electrical metering system, correct?

15 A That's correct.

16 Q And would you agree with me that an
17 electrical metering system is not defined in
18 commercial regulations?

19 A I don't know.

20 Q You don't know, okay.

21 And I don't see that you've defined it
22 exactly anywhere in your testimony, but would you

1 agree with me that the way you use that term -- that
2 phrase, I should say -- you're including the meter
3 and auxiliary equipment such as current transformers?
4 A Yes.
5 Q And current transformers are also known as
6 CTs, correct?
7 A Correct.
8 Q And you are also including items like
9 ComEd's software billing system known as the customer
10 information and management system, correct?
11 A Yes.
12 Q And the customer information and management
13 system is also known as CIMS, correct?
14 A Yes.
15 Q And you refer to a working standard or a
16 portable test meter standard, correct?
17 A Yes.
18 Q And you believe that the purpose of the
19 testing is to test this electrical metering system
20 against the portable standard, correct?
21 A Say that again.
22 Q You believe the purpose of testing is to

1 test the electrical metering system against the
2 portable standard?

3 A Yes, as it's defined in 410.155. Yes.

4 Q As -- as what is defined in 410.155?

5 A The electrical metering system.

6 Q Okay. So you are saying that -- I thought
7 you said that you didn't know if an electrical
8 metering system is defined in the regulations. Are
9 you saying now that it is defined?

10 A Is this the regulation, the administrative
11 code? If that's what you are referring to as "the
12 regulation", yes.

13 Q No. So I get -- when I say "the
14 regulations," or "Commission regulations," I'm
15 generally referring to all of Part 410, but if there
16 is something outside of 410 that is another
17 commission regulation, it would be okay to include
18 that too.

19 A Sure.

20 So to clarify my answer, not
21 understanding all of the regulations in their
22 entirety but focusing on 410.155, it's very clear to

1 me that the intent of the regulation is to include
2 all the auxiliary devices, current transformers, all
3 the things we'll be discussing today, as well as the
4 actual recording meter as is integrated, including
5 C-I-M-S way to measure a customer's usage and
6 consumption.

7 MS. BARRETT: For 410.155.

8 A To make -- and I am sure other regulations
9 that go to the purpose of metering.

10 MS. BARRETT: Okay.

11 JUDGE HILLIARD: Now just -- I think you said
12 C-I-M-S. I thought you said S-I-M-S?

13 MS. BARRETT: It's pronounced "SIMS," which
14 sounds like an "s" --

15 JUDGE HILLIARD: But it's spelled --

16 MS. BARRETT: But I should have said -- it's
17 C-I-M-S.

18 JUDGE HILLIARD: All right fine. Next.

19 BY MS. BARRETT:

20 Q So would you agree with me that portable
21 standard is defined in the Commission regulations?

22 A I don't know.

1 Q You don't know.

2 Okay. Let's actually take a look at

3 that. I have a complete copy of 410 that Ms. Lane

4 can hand to you.

5 A Great.

6 MS. BARRETT: Your Honor would you like a copy

7 as well?

8 JUDGE HILLIARD: I would.

9 BY MS. BARRETT:

10 Q Okay. And if you look at the second page

11 there -- well, I guess -- so this is -- 410.10 is the

12 section.

13 JUDGE HILLIARD: All right. Let's indicate for

14 the record that this has been identified -- or the

15 face of the document says ComEd Cross Exhibit No. 1.

16 MS. BARRETT: Your Honor, yes, I'm sorry about

17 that.

18 JUDGE HILLIARD: Go ahead.

19 BY MS. BARRETT:

20 Q Okay. Let's look at 410.10 which is titled

21 definitions. And on the second page of that, it

22 states, "'Portable standards' means instruments

1 (e.g., watt-hour meters, voltmeters, and ammeters)
2 that are used outside the meter shop to test customer
3 meters." Did I read that accurately?
4 A Yes.
5 Q Okay. So in Illinois, portable standards
6 must be able to test meters, correct?
7 A And by the devices that they have listed
8 here, also the auxiliary devices including current
9 transformers.
10 Q Well, does it say that in the definition of
11 a "portable standard"?
12 A Yes.
13 Q Where does it say about auxiliary equipment
14 and CTs in this definition?
15 A Just from common sense. The meter itself,
16 to measure the customer's energy accurately, relies
17 upon these auxiliary things, these current
18 transformers and the wiring, et cetera, to get the
19 right numbers. The meter has no way of understanding
20 anything but those signals.
21 So the meter in and of itself is
22 useless without these things being an integral part

1 of this metering system. And these devices listed as
2 portable standards are common in the industry to
3 prove out that the meter itself and all these other
4 accessories, if you would, are working correctly.

5 Q Okay. But so I -- right now, I am not
6 asking you about the industry, the complete industry
7 in the U.S. or in the world, I am asking specifically
8 in Illinois.

9 A Electricity works the same way in Illinois,
10 yes.

11 Q That's not my question. My question is
12 because portable standard --

13 A Are you asking me if it's ComEd's
14 practice --

15 JUDGE HILLIARD: Sir, let her ask the question
16 and then you will have a better idea of how to answer
17 it.

18 THE WITNESS: Yep.

19 BY MS. BARRETT:

20 Q So, in Illinois, as portable standard is
21 defined, from the face of that definition, the
22 portable standard must be able to test a meter,

1 correct?

2 A No.

3 Q No? So --

4 A By your definition of meter. I think

5 that's our problem. Your definition --

6 JUDGE HILLIARD: Sir, she is asking you about

7 this page and this document, what it says.

8 THE WITNESS: No is the answer.

9 JUDGE HILLIARD: All right.

10 BY MS. BARRETT:

11 Q Well, there's nothing in this definition

12 that mentions CTs, correct?

13 A Correct.

14 Q And there's nothing in that definition that

15 mentions billing systems?

16 A Correct.

17 Q Okay. Let's skip ahead in your testimony a

18 little bit to page 10 of your surrebuttal. Beginning

19 at line 213, so page 10 of your surrebuttal, line

20 213, one sentence in you start with "first", do you

21 see that?

22 A Yes, yeah.

1 Q And you state, "First the test for whether
2 a customer meter is accurately recording customer
3 usage requires that the tester determine the ratio
4 between the watt-hours indicated by the meter under
5 test as the numerator and the true watt-hours
6 indicated by the portable standard as the
7 demoninator. That fraction is then multiplied by 100
8 in order to obtain the percentage registration or
9 accuracy of the meter under test. A comparison of
10 the usage shown by the meter under test and the usage
11 shown by the portable standard is indispensable."
12 Did I read that accurately?

13 A Yes.

14 Q And are you aware that ComEd's portable
15 standards perform this ratio calculation
16 automatically?

17 A No.

18 Q Did you understand that Mr. Rumsey -- do
19 you understand that Mr. Rumsey testified that
20 ComEd's portable standards can report their test
21 results in three ways?

22 A Yes.

1 Q And those three ways are watt-hours,
2 percentage of accuracy and percentage of error,
3 correct?

4 A Correct.

5 Q And percentage of error is just the flip of
6 percentage of accuracy, right?

7 A Yes.

8 Q So 100 percent accuracy is equivalent to
9 zero percent error; 99 percent accuracy is equivalent
10 to 1 percent error?

11 A Correct.

12 Q And the only way to determine percentage of
13 accuracy or percentage of error of a meter under test
14 is to perform that ratio calculation that you
15 describe beginning at line 213 that I just read,
16 correct?

17 A Correct.

18 Q So the only way that ComEd's portable
19 standards could report their results in percentage of
20 accuracy is if the portable standard compared the
21 watt-hour data from the meter under test with the
22 watt-hour data from the portable standard, correct?

1 A Correct.

2 Q And to obtain the final test result then,
3 there is no need for the ComEd meter tester to read
4 that data directly from the meter under test,
5 correct?

6 A I don't know.

7 Q Okay. Let's go back to page 2 of your
8 surrebuttal now.

9 On lines 31 to 35 you quote a portion
10 of Mr. Rumsey's rebuttal testimony, could you read
11 that aloud?

12 A Sure.

13 If the meter under test is reporting
14 accurately i.e. not experiencing meter error, then
15 the portable standard will report the same watt-hours
16 for both the portable standard and the meter under
17 test where at least no more than roughly a 2 percent
18 average margin of error in the watt-hour
19 registration.

20 Q Thank you. And we just discussed that a
21 meter tester need only look at the portable standard
22 for results given in percentage of accuracy or

1 percentage of error, correct?

2 A Correct.

3 Q And we have also established that ComEd's
4 portable standards obtain watt-hour data from the
5 meter under test to compare with the watt-hour data
6 from the portable standard, correct?

7 A Correct.

8 Q Yet you state at page 2 lines 38 to 40 that
9 Mr. Rumsey's error here is that he only looks at data
10 from the portable standard, not data from the meter
11 under test. And that this explains -- and I am now
12 going to be quoting from you -- "his view that no
13 post-installation test would have disclosed ComEd's
14 error in this metering installation."

15 Did I read that accurately?

16 A You did.

17 Q First of all, Mr. Bernhardt, do you
18 understand that the testimony that you're quoting
19 here from Mr. Rumsey was concerning a hypothetical
20 situation?

21 A Yes. Yes.

22 Q You do. He was giving a hypothetical

1 example?

2 A It wasn't in LAZ's case specifically.

3 Q Correct.

4 A Right.

5 Q It wasn't in any case specific.

6 A Okay.

7 Q Okay. And this hypothetical was where

8 ComEd's portable standards would report their test

9 results in watt-hours, correct?

10 A Yes.

11 Q But Mr. Rumsey has actually made it clear

12 that ComEd's portable standards do not record their

13 test results that way, correct?

14 A Yes. But I -- they report in watt-hours is

15 my understanding.

16 Q Your understanding is that ComEd's --

17 A They can report.

18 Q They can, but they don't, do they? ComEd

19 has them set to report in percent of accuracy.

20 A I don't know. I am not sure how they

21 actually report it in the CIMS system.

22 Q Do you recall if Mr. Rumsey testified about

1 that?

2 A Yeah, vaguely. But it may be a percentage
3 of accuracy as what they report in CIMS.

4 Q You are saying what they report in CIMS --

5 A Uh-huh.

6 Q -- which is the billing system. But we are
7 talking about a portable standard. So we are talking
8 about a field test of a meter?

9 A Right.

10 Q Okay. Are you under the impression that
11 field tests of meters report to CIMS or somehow are
12 related to CIMS?

13 A It's been my experience that when somebody
14 tests a meter, they report it somewhere and keep a
15 record of it so they have some understanding of what
16 the result of the test was.

17 Q So, okay.

18 So you are just saying that because
19 you think maybe ComEd keeps its meter test results in
20 CIMS?

21 A Yes.

22 Q But you are not sure.

1 Okay. Let's look at the sentences of
2 Mr. Rumsey's testimony -- Mr. Rumsey's testimony
3 proceeding the sentences that you quote. So this
4 would be ComEd Exhibit 5.0, and Ms. Lane has a copy
5 if you do not have one.

6 A I may have one.

7 Q Or if you would just like one.

8 A It maybe simpler for me just to grab one.

9 MS. BARRETT: Would you like one, your Honor?

10 JUDGE HILLIARD: Sure. Thanks.

11 THE WITNESS: 5.0?

12 MR. NEILAN: What line were you referring to?

13 MS. BARRETT: We are going to turn to page 7.

14 So you are all now ahead of me.

15 BY MS. BARRETT:

16 Q So beginning at line 146 the full -- first
17 full sentence there that starts with "as," would you
18 read that aloud through the sentence that ends at
19 line 152?

20 A Sure.

21 I'll start at "as I've explained."

22 Q Perfect.

1 A As I've explained at length, portable
2 standards do not measure usage or kilowatt-hours.
3 The comparison that Mr. Bernhardt requests is
4 therefore impractical if not impossible. Even if
5 ComEd were to compare kilowatt-hour information
6 derived from the field test, the following example
7 shows why Mr. Bernhardt's theory is fatally flawed.
8 Assume for purposes of this example
9 only that ComEd's portable standard report their test
10 results in watt-hours.
11 Also, note that 1000 watt-hours is
12 equivalent to 1 kilowatt-hour. If the meter under
13 test is reporting accurately i.e. not experiencing
14 meter error --
15 Q That's okay. You don't have to keep going.
16 So I am just making clear that you
17 understand that this reporting in watt-hours was only
18 for this example.
19 A Okay.
20 JUDGE HILLIARD: Was that a "yes"?
21 THE WITNESS: Yes. Yes. Sorry.
22

1 BY MS. BARRETT:

2 Q So I think we have established that you
3 understand that ComEd's portable standards are
4 obtaining data from the meter under test?

5 A Yes.

6 Q So ComEd is not ignoring the meter under
7 test, correct?

8 A No.

9 Q And let's go right back to your testimony
10 on page 2.

11 This is just a little more like a
12 housekeeping issue. On line 45, you refer to
13 kilowatt-hours, I'm wondering if you mean watt-hours?

14 A No.

15 Q You mean kilowatt-hours?

16 A Yes.

17 Q Okay. Let's move to page 11 of your
18 testimony.

19 And at lines 236 to 241, I believe you
20 are stating that you and Mr. Rumsey --

21 A I'm sorry. Give me the line numbers again.

22 Q Approximately 236 to 241.

1 A Of page?

2 Q 11 of your surrebuttal.

3 A Oh, surrebuttal. I'm sorry. Okay.

4 Q So as I understand, it you are stating that

5 you and Mr. Rumsey are talking about two different

6 kinds of tests? Mr. Rumsey is discussing a test

7 where the portable standard provides the load, and

8 you are discussing the test using the customer's own

9 load.

10 A Yes.

11 Q Is that accurate? Yes?

12 A Yes.

13 Q And we agree, I think, that during a meter

14 test, the meter is isolated from the CTs, correct?

15 A In some tests.

16 Q In some tests.

17 A Yes. There are multiple tests that need to

18 be performed to ensure that a customer's metering

19 installation is accurately measuring the energy.

20 Q Okay. Well let's -- actually, let's look

21 at your affidavit on page 3, "Miscellaneous."

22 MS. BARRETT: I was just thinking that I forgot

1 to mark past exhibits, but that's not true because I
2 think we only passed out other testimony. So this
3 will be Cross Exhibit 2.

4 MR. NEILAN: Excuse me, which affidavit are you
5 referring to? You are referring to an affidavit?

6 MS. BARRETT: Yes. I thought he only had one
7 affidavit, Mr. Bernhardt.

8 MR. NEILAN: There were --

9 MS. BARRETT: Anyway, we will pass it out and
10 it will be there.

11 MR. NEILAN: Oh, this is -- okay -- in
12 connection with the --

13 JUDGE HILLIARD: Is the affidavit attached to
14 the motion for summary judgment -- or the response to
15 the motion for summary judgement?

16 MS. BARRETT: Yes.

17 MR. NEILAN: This was part of the motion. Part
18 of the response.

19 JUDGE HILLIARD: Okay.

20 BY MS. BARRETT:

21 Q So let's look at page 3.

22 JUDGE HILLIARD: Of Cross-Examination -- ComEd

1 Cross-Examination Exhibit 2?

2 MS. BARRETT: Yes.

3 BY MS. BARRETT:

4 Q Paragraph 16: "For purposes of testing, a
5 transformer-rated meter generally uses test switches,
6 the function of which is to short-circuit the current
7 transformer secondaries and isolate the meter so that
8 it may be tested while in service without hazard to
9 utility personnel."

10 That's what you stated, right?

11 A Yes.

12 Q Are you now saying that that is an
13 incomplete statement?

14 A No.

15 Q Okay. So we agree that during a meter test
16 the meter is isolated from the CTs, correct?

17 A No. There are many tests. One of the
18 tests you would actually series the portable standard
19 with the customer's meter and have the actual
20 customer load flow through both of those meters. And
21 then you would know the accuracy of the customer's
22 meter.

1 Mr. Rumsey is limiting himself to just
2 one type of test, where there are several that are
3 necessary to ensure the proper installation and
4 accuracy.

5 Q So you are proposing doing a meter test
6 with a portable standard without isolating the CTs?

7 A No. The test switch can be opened and
8 closed. And for you to, you know, connect the
9 portable standard, you need to isolate the CTs
10 temporarily while you make the wiring connections and
11 then close them back to allow the current to flow
12 safely. It's just a safety issue.

13 Q I see so you are saying -- in your
14 paragraph 16, when you are saying that you isolate
15 the CT -- the CTs, to you that is only while it is --
16 while the meter tester is hooking up the portable
17 standard in series but after that --

18 MR. NEILAN: I would object to what -- his
19 paragraph 16 language is "isolate the meter."

20 JUDGE HILLIARD: Sustained.

21 MR. NEILAN: Not isolate the CTs --

22 JUDGE HILLIARD: Sustained. Sustained.

1 MS. BARRETT: Sorry. I didn't mean anything by
2 that.

3 BY MS. BARRETT:

4 Q So you only believe that the meter needs to
5 be isolated while the test equipment is being hooked
6 up?

7 A If you are testing the customer's load with
8 the portable standard and the customer meter
9 connected in series so they both see the same amount
10 of flow, that's correct.

11 Q Okay. And that's -- so there's two
12 different kinds of tests. One -- well, there's maybe
13 more than that, but let's discuss two for now.

14 The type where you isolate the meter
15 and leave it isolated for the entire test, and other
16 that you brought up in your surrebuttal testimony,
17 which is where you isolate the meter only while you
18 are hooking it up then you deisolate the meter while
19 you run the test?

20 A Yes.

21 Q Okay. So I would like to ask you some
22 questions about a test with a portable standard where

1 you isolate the meter for the entire test.

2 Just a preliminary question, would you

3 agree with me that power flows into the customer's

4 facility from ComEd's distribution lines through the

5 CTs?

6 A Yes.

7 Q And that power flowing through the CTs is

8 the customer's load?

9 A Yes.

10 Q And that is also sometimes called the

11 primary side, correct?

12 A Yes.

13 Q And we agree that normally the CTs step

14 down that power before it travels to the meter,

15 correct?

16 A Correct.

17 Q And then --

18 JUDGE HILLIARD: Does that mean step down the

19 voltage or step down current? What are you stepping

20 down?

21 MS. BARRETT: The current.

22 THE WITNESS: Current.

1 JUDGE HILLIARD: All right.

2 BY MS. BARRETT:

3 Q And that's also called -- the meter side is
4 called the secondary side, correct?

5 A Correct.

6 Q And the switches that we talked about,
7 that's the demarcation between the primary side and
8 the secondary side?

9 A No.

10 Q The CT -- is the CT? Where is your
11 demarcation between the primary and secondary?

12 A The purpose of the test switches is to
13 short out the current transformer on the secondary.

14 Q Sorry. I understand. Okay, so you're --

15 A You're not touching the primary.

16 Q Right. I'm asking you, in your opinion,
17 where does the primary side end and the secondary
18 side begin?

19 A There is no physical connection. It's
20 electromagnetically induced. So a current
21 transformer, the simplest version is like a donut
22 where you put the primary conductor through the

1 middle of this core of windings and iron. And in
2 this case it may have been 600 amps of primary would
3 generate 5 amps of secondary.

4 That secondary wiring is hazardous.
5 If you were to open that and not have it shorted
6 through some sort of a meter or something, it could
7 explode.

8 So that -- the purpose of the test
9 switch is to temporarily short that out while you do
10 maintenance and testing. And it's only on the
11 secondary, you don't touch the primary in this case.

12 Q Okay. So, in your opinion, the secondary
13 starts with the wires coming out of the CT that go to
14 the meter. That's the secondary.

15 A To the test switch and then to the meter.

16 Q And then to the meter. Okay.

17 A Yes.

18 Q So in a test where the meter is isolated
19 for the entire test, that meter is isolated from the
20 customer's load, correct?

21 A Yes.

22 Q And during that test it's not actually

1 possible to use the customer's load for the test?

2 A In that particular test, that's correct.

3 Q Okay. So the portable standard in that

4 test will never measure whether the meter is

5 accurately registering the actual full load of a

6 customer who uses CTs, correct?

7 A That's the point of my testimony.

8 Q So a meter test with a portable standard

9 that is isolated cannot instantly identify an error

10 with a CT, correct?

11 A That's correct.

12 Q And during that test, the CT is not

13 stepping down any power travelling through the meter,

14 correct?

15 A It's short-circuited through the switch

16 during that test, that's correct.

17 Q So the CT is not stepping down any of that

18 power?

19 A No. It is stepping it down. You are just

20 diverting the current flow back to the CT so it

21 doesn't have to flow through the meter under test.

22 Q Oh, I see. So you are saying the CT is

1 still stepping it down -- stepping down power. But
2 it's not stepping down power that is being used for
3 the test.

4 A You are just not measuring that power
5 during that particular type of test, that's correct.

6 Q And so during that test, the CTs have no
7 impact on the exact same current voltage and phase
8 angle that pass through the portable standard and the
9 meter under test for the same period of time,
10 correct?

11 A That is correct. That's why that test is
12 not sufficient to assure anybody that the
13 installation is correct in it's entirety.

14 Q And the whole reason that a customer has
15 CTs is because the meter can't handle the full
16 customer load, correct?

17 A That's correct.

18 Q The CTs need to step down that current so
19 meter can handle it?

20 A Correct.

21 Q And the reason we use billing multipliers
22 in that situation is because of the CTs, correct?

1 A Yes.

2 Q And we use those billing multipliers to
3 accurately bill for the full usage as opposed to just
4 the step-down usage?

5 A Yes.

6 Q So if the CTs are not stepping down the
7 power, there is no need to apply the billing
8 multipliers, correct?

9 A Correct. In that particular test.

10 Q So assuming now -- again, you've said that
11 there is a kind of test that you can do with
12 customer's own load?

13 A Yes.

14 Q You state that it's actually preferable to
15 use the customer's own load?

16 A Yes.

17 Q Correct?

18 Would you agree with me that a
19 customer's own load fluctuates moment to moment
20 depending on what electronic devices are in use at
21 the time?

22 A Yes. But if you allow the test period to

1 be of sufficient length -- and I am talking a matter
2 of minutes, let's say -- those meters will record
3 exactly, regardless of the fluctuation, the amount of
4 energy that flowed through the system.

5 Q But that fluctuation would actually make it
6 impossible to control the test for the different
7 levels of light load and heavy load, wouldn't it?

8 A Yes.

9 Q And it would also be impossible to do the
10 power factor test, wouldn't it?

11 A Yes.

12 Q Let's go back to page 3 of your
13 surrebuttal.

14 There in that first paragraph of page
15 3 -- I guess you might want to look to page 2 to get
16 the word "the" so you can get the meaning of the
17 sentence, but that first paragraph --

18 JUDGE HILLIARD: Starting with line 46?

19 MS. BARRETT: Yes.

20 BY MS. BARRETT:

21 Q You are discussing billing pulses correct?

22 A Yes.

1 Q And you state that for the LAZ meter at
2 issue in this case, the data that the meter provides
3 while under test would be in the form of billing
4 pulses, correct?

5 A Yes.

6 Q And are you aware that the LAZ meter at
7 issue in this case is an Elster Alpha series meter an
8 Alpha Plus?

9 A Yes.

10 JUDGE HILLIARD: Can you spell Elster?

11 MS. BARRETT: E-L-S-T-E-R.

12 JUDGE HILLIARD: Thank you.

13 BY MS. BARRETT:

14 Q Mr. Bernhardt, are you aware that when this
15 type of meter is placed in test mode, the billing
16 pulse function is disabled?

17 A No.

18 MS. BARRETT: Okay. I'd like to pass out the
19 next Cross Exhibit, which, I believe, we're on No. 3.

20 MR. NEILAN: I would just like to clarify that
21 question. When you say that billing pulse mode is
22 disabled, you are talking about the test of the meter

1 in isolation?

2 MS. BARRETT: You know I'm actually just
3 talking about any test of the meter.

4 MR. NEILAN: Any test.

5 THE WITNESS: Then I will correct my answer.

6 It depends upon which one of the
7 multiple tests you are performing. If you are
8 performing the test in isolation as we described
9 where you shut those test switches and pull it away
10 and in isolation are creating your own current flow,
11 which is very light, or, you know, you can do your
12 light load and your full load tests, it makes perfect
13 sense that they would have a test mode to do that.

14 You would not use that test mode if
15 you had it connected to the primary of the customer's
16 load through the secondary and the CTs and were
17 actually measuring what the customer's using.

18 And there's two reasons for doing
19 that. The first is to make sure the meter is
20 accurate from the shop or factory, wherever they
21 tested it. And my experience is they are very
22 accurate. So my concern typically on one of these

1 installations is more with the auxiliary equipment,
2 the CTs, the wiring, as that's the likely place for
3 mistakes to happen along with the calculation of
4 meter multiplier than with the accuracy of the meter
5 itself as in the test you are about to describe to
6 me.

7 BY MS. BARRETT:

8 Q I think we're getting very far beyond my
9 question.

10 A Sure.

11 Q Which is that, are you aware that when you
12 put this meter in test mode, the billing pulse
13 function is disabled? And I am talking about any
14 test. I guess maybe you are saying you would run
15 certain tests of a meter without putting it in test
16 mode?

17 MR. NEILAN: I object to asked and answered.

18 JUDGE HILLIARD: I'll let her go with this one.
19 It seems to me she's seeking clarification of his
20 understanding of the scope of the question.

21 So if you understood the question, go
22 ahead and answer.

1 THE WITNESS: Run it by -- it was a bit of a
2 compound question.

3 BY MS. BARRETT:

4 Q Would you test -- I'll start a little
5 differently. Would you test a meter without putting
6 it in test mode?

7 A Yes.

8 Q When you do this other test, you are
9 talking about under the customer load?

10 A Yes.

11 Q And if you tested a meter in isolation,
12 would you put it in test mode?

13 A Yes.

14 Q And I'm really just not sure what his
15 answer is any more. When you place this type of
16 meter that LAZ has in test mode, do you understand
17 that the billing pulse function is disabled?

18 A Yes.

19 Q So customers are not billed for the energy
20 used under the test?

21 A Yes. That's correct.

22 Q And there are no billing pulses generated?

1 A Yes.

2 MR. NEILAN: Just to clarify, in that form of

3 test, you are talking about the meter in isolation.

4 MS. BARRETT: Yes, I am talking about the meter

5 in isolation or, I guess, any time you are testing

6 the meter and you have put it in test mode.

7 THE WITNESS: Yeah.

8 BY MS. BARRETT:

9 Q And that seems fair, doesn't it, because

10 the customer doesn't actually consume the energy used

11 in the test?

12 A Yeah. That's correct.

13 Q So in that case, the usage reported by the

14 meter under test will not ultimately be used for

15 billing the customer, correct?

16 A Yes.

17 Q And the test data, instead of being in the

18 form of billing pulses, it will be in another form of

19 pulse, like, maybe, a test pulse?

20 A (Nonverbal response.)

21 Q And the meter will emit one pulse for every

22 revolution of the virtual disk, correct?

1 A Yes.

2 MR. NEILAN: I would object. That's not in
3 his -- he's not talking about -- in his testimony
4 about virtual disk and the number of pulses and how
5 it's set.

6 MS. BARRETT: You know, I think we are going to
7 get to that. That's the Kh, and I think that's my
8 next question.

9 MR. NEILAN: Okay.

10 BY MS. BARRETT:

11 Q So with the LAZ meter, one pulse represents
12 1.8 watt-hours, correct?

13 A Yes.

14 Q Because the Kh is 1.8, correct?

15 A Yes.

16 Q And for a heavy load test, do you agree
17 that the meter tester will usually run the test for
18 10 revolutions of the virtual disk?

19 A I'm not familiar with the ComEd procedure
20 but that's not an unreasonable.

21 Q So if the meter is functioning accurately,
22 at the end of heavy load test it will report 18

1 watt-hours, correct?

2 A Correct.

3 Q And that's just 1.8 times 10.

4 And if the exact same current voltage

5 and phase angle passed through the portable standard

6 and the LAZ meter under test for the same period of

7 time, you would expect the portable standard to

8 register the same 18 watt-hours, correct?

9 A Correct.

10 Q And that would be the end of the test.

11 A It might be. I would probably suggest

12 doing light load and some other things, but yeah.

13 Q Okay.

14 A For this discussion, yes.

15 Q So going back to your surrebuttal on page

16 3. Your subsequent discussions, meaning, like, line

17 50 through 57, you are actually talking there about

18 utility billing, not meter testing, correct?

19 A Yes.

20 Q So in line 57 are you actually meaning to

21 refer to the billing period not the test period?

22 A That's correct.

1 Q A little further down on page 3, just one
2 line down, line 58, you state that Mr. Rumsey's
3 position that meter tests do not involve billing
4 multipliers is wrong and that it contradicts his own
5 testimony, correct?

6 A Correct.

7 Q And you quote a portion of Mr. Rumsey's
8 testimony as evidence of that contradiction, correct?

9 A Yes.

10 Q Let's look at that portion of Mr. Rumsey's
11 testimony, which is ComEd Exhibit 1.0.

12 JUDGE HILLIARD: Thanks.

13 BY MS. BARRETT:

14 Q And we will go to page 7.

15 So you quoted lines 139 to 140 and
16 let's also look at the question that he's answering
17 which begins on line 137. Could you read that
18 question and answer aloud?

19 A Sure.

20 "If the customer utilizes a CT, how
21 does ComEd bill for all the customer's usage as
22 opposed to only the step down usage that the meter

1 recorded?"

2 And the answer is, "In order to
3 properly bill the customer's usage, C-I-M-S uses
4 information about the CT, it's size and type, to
5 multiply the meter data to bill for actual usage.
6 This multiplier is known as a constant."

7 Q So Mr. Rumsey is talking about billing,
8 correct?

9 A No.

10 Q It is your position that in this question
11 and answer he is not talking about billing?

12 A Not in isolation, no. It too -- you can't
13 get to this action without having the metering
14 understood.

15 Q But he is not talking about meter testing,
16 correct?

17 A No.

18 Q So there is not actually any contradiction,
19 is there? Because you have said --

20 JUDGE HILLIARD: Between what and what?

21 MS. BARRETT: He says that Mr. Rumsey's
22 testimony here contradicts itself. Or Mr. Rumsey's

1 position that meter tests do not involve billing
2 multipliers because it contradicts his own testimony.

3 BY MS. BARRETT:

4 Q But this testimony isn't talking about
5 meter testing, is it?

6 A I'm sorry if I confused you.

7 To not have the correct multiplier can
8 be the result of, you know, several things, it can be
9 not installed correctly, not understood. And if you
10 don't get the current transformers installed
11 correctly and then derive a multiplier, you can't
12 have an accurate customer billing.

13 BY MS. BARRETT:

14 Q I don't think that's responsive to what I
15 am asking you about.

16 A Ask me. I'm sorry.

17 Q You've said that Mr. Rumsey is inaccurate
18 and contradicts himself. And you've said that he
19 contradicts himself here because he has said that
20 meter tests don't involve billing multipliers. And
21 you say -- you point us to this testimony. You
22 say --

1 A I absolutely disagree with that. I told my
2 position: For a meter tester to not understand what
3 the multipliers of a meter are is failing in the
4 primary objective of being a meter tester.

5 Q And you hold your position that this
6 question and answer contradicts Mr. Rumsey's position
7 that ComEd's meter tests don't involve billing
8 multipliers?

9 A That they -- that they -- say that again.

10 Q That's what you've stated. You've stated
11 that Mr. Rumsey contradicts himself.

12 A Yes.

13 Q Because he testifies that ComEd's meter
14 tests do not involve billing multipliers. And you
15 say that contradicts this question and answer right
16 here.

17 A Oh, I understand. Yes. Because the ComEd
18 test is so limited as to not fully prove out the
19 entire system. So I do stand by my...

20 You've only -- in the test that you
21 are describing where you isolate the meter and put it
22 in that test mode, there is no way you still know

1 whether the customer is being billed accurately. And
2 the C-I-M-S system would -- is another chance for an
3 error if there was some miscommunication at that
4 transaction.

5 Q Okay. I understand what you are saying,
6 but that doesn't seem to contradict anything in
7 Mr. Rumsey's testimony?

8 JUDGE HILLIARD: That's his answer.

9 MS. BARRETT: Okay.

10 JUDGE HILLIARD: Move on.

11 BY MS. BARRETT:

12 Q Let's move on to compare your different
13 discussions of meter test data. And if you would,
14 let's put pages 9 and 10 of your surrebuttal right
15 next to each other.

16 Let's look at page 10 first. And
17 specifically the answer beginning at line 213. And
18 earlier this morning I read aloud that answer,
19 correct? The numerator and the denominator.

20 A Yes.

21 Q And here I think you explain very
22 accurately the meter test and the determination of

1 meter accuracy, talking about the ratio between the
2 watt-hours indicated by the meter and the watt-hour
3 indicated by the portable standard. But would you
4 agree this is an apples-to-apples comparison?

5 A For the test where we're actually using the
6 customer's load, this is an accurate statement.

7 Q So this is just for the customer's load
8 test, this is not for the test in isolation?

9 A Correct.

10 Q And I guess I asked if it was
11 apples-to-apples, do you understand that phrase where
12 you are comparing two like things?

13 A Sure.

14 Q Would you say that this is an
15 apples-to-apples test or comparison?

16 A Explain the test to me. I am just not
17 following.

18 JUDGE HILLIARD: Tell me what the apples are.
19 BY MS. BARRETT:

20 Q You are comparing the data from the meter
21 under test to the data from the portable standard?

22 A Okay.

1 Q Apples-to-apples. Would you agree with
2 that?

3 A Yeah.

4 Q And if everything -- if the meter is
5 functioning accurately, you would expect the
6 numerator and denominator to be the same or very
7 close?

8 A Yes.

9 Q And why do you say this is only for the
10 meter -- for the test under the customer's load? I
11 think you just said a few minutes ago that this
12 description here on page 213 is only for the test
13 under the customer's load. But to me, it seems like
14 it also applies to a test in isolation?

15 A It can but it limits -- that test under
16 isolation is very limited in that it doesn't consider
17 all the other technical variables that go to make up
18 the actual, you know, registration that the
19 customer's billed on, which includes the multiplier
20 and current transformers, et cetera.

21 Q Okay. So I understand that. But your
22 description here, 213, would also apply -- beginning

1 at line 213, would also apply to a test in isolation?

2 A Yes.

3 Q Okay. Now, let's look at page 9 of your

4 testimony.

5 Then the answer beginning at line 191,

6 where you start with, "As I stated earlier, would you

7 read that aloud?

8 A I am having a hard time finding it.

9 Q Page 9, line 191.

10 A Oh.

11 Q You just had page 10 in front of you.

12 A Oh, in the surrebuttal.

13 Q Did I say something else? I'm sorry?

14 A Yes. I will start reading at 191.

15 Q You don't have to read the -- you can just

16 start with "as I stated."

17 A "As I stated earlier, the portable standard

18 would be connected in series with the meter under

19 test so that the same voltage, current, and phase

20 angle would pass through both meters for the same

21 testing period. To determine whether the meter under

22 test is properly reporting customer usage, one would

1 compare the usage indicated by the meter under test
2 with the usage indicated by the portable standard."
3 Q Okay. Stop just for one second.
4 A Sure.
5 Q Well complete it in -- so far the two
6 descriptions, the one that we just went over on
7 page 10 at 213 and this one, sound the same, correct?
8 A Yes.
9 Q Okay. But then here you add in another
10 sentence beginning "consequently"?
11 A Would you like me to read that?
12 Q Yes, please.
13 A "Consequently to obtain the usage indicated
14 by the meter under test, one would need to take the
15 relevant pulse data from that meter and factor it by
16 all the applicable billing multipliers including the
17 current transformer multiplier. Once again, had this
18 been done by ComEd, the enormous difference between
19 the two usage figures would have made ComEd's error
20 immediately apparent."
21 Q So if you did this, the sentence where you
22 begin "consequently," -- if you did that to a meter

1 under test in isolation, you would no longer have
2 apples-to-apples, right? You would have, sort of,
3 like, an apple and an orange because you would be
4 applying billing multipliers to the meter under test
5 but not to the standard?

6 A No. To compare them you would have to --
7 if that's the way you wanted to do the test -- which
8 by the way you wouldn't -- you would get the same
9 exact number. All it would be is just a
10 multiplication.

11 Q Oh, are you saying you should apply the
12 billing multipliers to both the meter under test and
13 the standard?

14 A Yes.

15 Q Okay. So you have to do it to both or
16 neither?

17 A That's correct. And in a customer load
18 test you would want to do that to make sure that the
19 meter is accurate.

20 Q And in a test in isolation, it's sort of
21 irrelevant or it's not necessary, I guess?

22 A That's correct.

1 Q Going onto the next paragraph at lines 201
2 to 204, you mention a second technique to assess the
3 accuracy of the customer's meter installation?

4 A Yes.

5 Q "Is to connect the portable meter test
6 standard directly to the customer's electrical
7 service equipment and compare the two meter's power
8 demand and energy usage for the test period."

9 Are you talking about hooking the
10 portable standard directly to the primary side?

11 A Yes.

12 Q So -- doesn't that risk personal injury?

13 A No.

14 Q Are you aware of portable standards that
15 can handle the current level that comes through the
16 CT?

17 A Yes.

18 Q And in this description, are you also
19 talking about comparing the customer meter to a test
20 meter or to a portable standard?

21 A They are the same.

22 Q So in your testimony, if you say test

1 meter, it's interchangeable with portable standards
2 meter?

3 A That's correct.

4 The equipment as specified in the
5 administrative code doesn't limit things to --
6 doesn't limit the things that must and can be used
7 for this type of testing to just what's called a
8 shop -- or a shop and field test standard where you
9 use that in the test in isolation. There are other
10 things that are specifically listed in there that are
11 rated for exactly your concern about the primary
12 energy and the levels of currents and things. And I
13 will give you the short version.

14 You have another current transformer
15 that you clip onto the customer's wires and run it
16 into your portable test meter standard that has to be
17 calibrated and assured for accuracy to NIST standards
18 within certain periods. So it is believed to be as
19 accurate as the portable test standard that you use
20 during the test in isolation.

21 Q So you referred to the Commission
22 regulations there.

1 Can you tell me what Commission
2 regulations those are.

3 A Yeah. It's 155.

4 Q Just 410.155?

5 A I believe it's in it. Let's check.

6 Q Installation Inspections, is that the one
7 you are referring to?

8 A Yep.

9 Q And that's the only one you are referring
10 to?

11 A No. There is someplace else. You have to
12 give me a moment. I will find it --

13 Q Okay.

14 A -- for you.

15 MS. BARRETT: I'm sorry. I guess there's a
16 question pending, so I'd rather he didn't discuss
17 with you.

18 MR. NEILAN: Oh, sure.

19 BY MS. BARRETT:

20 Q We gave you a sec- -- part 410. You can
21 look through it to find --

22 A Gotcha.

1 MR. NEILAN: Which section are you referring
2 to?

3 MS. BARRETT: I'm not referring to one, he is.
4 So he's looking to tell me.

5 THE WITNESS: I apologize Ms. Barrett.

6 And in 410.140 it goes through the
7 requirement for accuracy and does not specifically
8 limit to any exact type of equipment, but rather in a
9 more general, broader stroke, talks about any and all
10 instruments used to confirm the accuracy of metering.

11 BY MS. BARRETT:

12 Q So you're referring to 410.140, Testing
13 Facilities and Equipment?

14 A Correct.

15 Q And where exactly in there are you
16 referring?

17 A It says at Subpart E -- it says the
18 accuracy of all testing equipment owned by each
19 entity as well as the methods of operation of testing
20 equipment, you know, is the responsibility, and the
21 sections above talk about specific requirement.

22 Q I'm sorry. My Section E, 410.140 says, "An

1 authorized representative of the Commission may check
2 or establish the accuracy of all testing equipment
3 owned by each entity as well as the methods of
4 operation of testing equipment."

5 A Correct.

6 Q And then it says that the Commission can
7 perform an audit every three years?

8 A Right. And everything above that talks
9 about the specific accuracy that all of these
10 instruments and devices must have. Put it this way:
11 The only instrument that we test meters with is not
12 limited to this portable standard that you use during
13 the isolation test. There are many other devices
14 that we use while we perform this work.

15 Q And it's your position that 410.140
16 authorizes utilities in Illinois to use whatever
17 equipment they see fit?

18 A Yes.

19 Q Let's go on to page 4 of your testimony.
20 You make a couple of statements that I would like
21 to --

22 JUDGE HILLIARD: Are you talking about the

1 surrebuttal testimony.

2 MS. BARRETT: Yes. I'm sorry.

3 BY MS. BARRETT:

4 Q So you make a couple statements in there
5 that I would like to explore a little further.

6 On lines 69 to 73, you state, "The
7 utilities meter test technician is responsible for
8 the quality of the metering installation and that
9 responsibility extends not only to observing and
10 proving the accuracy of the metering system, but also
11 to ensuring that the information from the meter test
12 will be correctly understood by the utility's billing
13 or customer accounting process."

14 Did I read that accurately?

15 A Yes.

16 Q You haven't reviewed the job descriptions
17 for ComEd's field and meter service technicians have
18 you?

19 A No.

20 Q And you haven't attended ComEd's field and
21 meter service technician training programs have you?

22 A No.

1 Q And you haven't interviewed any ComEd field
2 and meter service technicians have you?

3 A Not in the last 20 years.

4 Q And you don't know how many field and meter
5 services technicians ComEd has do you?

6 A No.

7 Q And you aren't aware of whether ComEd's
8 field and meter services technicians are familiar
9 with ComEd's billing processes, are you?

10 A I am. I have read Mr. Moore's testimony
11 and it became very clear that he is integral in the
12 C-I-M-S information upload.

13 Q So you believe from Mr. Moore's testimony
14 that ComEd's field and meter services technicians are
15 familiar with ComEd's billing processes?

16 A He indicated that he updated the
17 information on his laptop in some electronic form
18 that was then used by C-I-M-S.

19 Q So because he entered information on his
20 laptop that was then uploaded by someone else into
21 CIMS, in your opinion that makes him knowledgeable
22 about ComEd's billing processes?

1 A Yes.

2 Q And you aren't aware of whether ComEd field
3 and meter services technicians aren't familiar with
4 ComEd's accounting processes are you?

5 A No.

6 Q You aren't aware of whether -- what ComEd's
7 field and meter services technicians qualifications
8 are, are you?

9 A Generally, yes.

10 Q Generally you aware of their level of --

11 A Yes.

12 Q -- education?

13 A I ran a meter department for a utility
14 company.

15 Q So you're generally aware of their
16 experience.

17 A Level of education.

18 Q Tenure?

19 A Yes.

20 Q At ComEd?

21 A No.

22 Q You aren't aware of whether ComEd's field

1 and meter services technicians have accounting
2 degrees, are you?

3 A No.

4 Q Do you know that ComEd's field and meter
5 technicians are union employees?

6 A Yes.

7 Q Do you know that the job duties of union
8 employees are circumscribed by a legal document such
9 as collective bargaining agreements?

10 A Yes.

11 Q Do you know that your client has taken the
12 position in this case that ComEd's employees who work
13 in the metering department have no knowledge about
14 ComEd's billing department?

15 A I don't know that.

16 Q You don't know that?

17 A No.

18 Q But you would maintain that ComEd's
19 employees who work in the metering department do have
20 knowledge of ComEd's billing department?

21 A Given the information I read in Mr. Moore's
22 testimony and the screens provided by the customer

1 accounting department, where they indicate where they
2 source the information from, yes.

3 MR. NEILAN: And I object to that because the
4 question that you are referring to, you're misstating
5 that testimony. And that affidavit related
6 specifically to your witness's knowledge of LAZ
7 Parking's billing.

8 MS. BARRETT: I don't think I mentioned any
9 testimony or affidavit. I talked about a motion in
10 limine.

11 JUDGE HILLIARD: I don't know what the
12 relevance of this is. Why don't we proceed.

13 BY MS. BARRETT:

14 Q Let's go on to lines 75 to 77 of your
15 surrebuttal.

16 You state there that ComEd's meter
17 testing department does not affirmatively undertake
18 to give its own billing department a definite
19 confirmation of all the technical information that is
20 essential to the customer billing process.

21 Did I fairly represent your testimony?

22 A Yes.

1 MR. NEILAN: Well it's -- just to interrupt,
2 it's -- the full sentence -- that's not the full
3 sentence. The full sentence begins, "As ComEd
4 witness Rumsey describes ComEd's standard meter
5 testing procedure."
6 MS. BARRETT: And then says, "After purportedly
7 testing the customer's meter for accuracy..."
8 So I think the part you added in is
9 not -- it's a different clause.
10 JUDGE HILLIARD: I think for completeness
11 Mr. Neilan's addition will stand. Do you have a
12 question?
13 MS. BARRETT: Yes.
14 JUDGE HILLIARD: I don't know what it is.
15 MS. BARRETT: Yes. I'm sorry.
16 BY MS. BARRETT:
17 Q Did you review Mr. Rumsey's direct
18 testimony?
19 A Yes.
20 Q Did you look at ComEd Exhibit 1.03?
21 A Yes, I did.
22 Q I think we gave you a hard copy if that's

1 quicker, 1.03, yes. That's the Aux Inspection Form.
2 Do you understand that this Aux Inspection Form is
3 actually a definite confirmation of technical
4 information that is essential to the customer billing
5 process?

6 A Dated 2011.

7 Q This is a blank form. It's a sample form.

8 A Oh, okay. It says it was created in 2011.

9 Q That's the version of it.

10 A So you are saying that this exact form was
11 used in 2007 in this matter.

12 Q No, I am not saying this exact form. I'm
13 saying a very similar form.

14 A Oh, yes.

15 Q And I think you'd stated that you reviewed
16 Mr. Moore's testimony?

17 A Yes.

18 Q Okay. So let's take a look at page 3 of
19 his testimony. I think Ms. Lane is going to pass out
20 Mr. Moore's testimony.

21 JUDGE HILLIARD: Thanks.

22

1 BY MS. BARRETT:

2 Q And if we look at page 3 beginning on line
3 48, can you read the question and answer there and
4 the one following, can you read that out loud.

5 A We are in Mr. Rumsey's direct?

6 Q No, sorry, Mr. Moore. I think Ms. Lane
7 just gave you a copy of Mr. Moore's?

8 A I have one also.

9 MR. NEILAN: Could you state the location once
10 again.

11 MS. BARRETT: Page 3.

12 JUDGE HILLIARD: Of ComEd Exhibit No. 2.0.

13 MR. NEILAN: 2.0.

14 BY MS. BARRETT:

15 Q Line 48, that question and answer and the
16 next question and answer.

17 A You'd like me to read those?

18 Q Yes, please.

19 A Sure.

20 "How did you acquire the requested
21 information?"

22 "First, I physically located the LAZ

1 meter. Then I recorded the serial number of the LAZ
2 meter, 141362866. It's size, 26, and model type,
3 D3LS62. Next, I recorded the serial numbers --"

4 Q You can skip those numbers if you want.
5 They are kind of painful to read.

6 A All right.

7 "The three serial numbers; size, 3000;
8 and ratio, 600, of the CTs in use with the LAZ
9 meter."

10 Next question, "How did you update
11 CIMS with this information?"

12 "Once I completed the information
13 collection I entered everything into my mobile
14 dispatch terminal, which is a laptop computer. This
15 information is then transferred to a F-N-M-S clerk
16 who puts the data into CIMS."

17 Q Do you understand that that was a definite
18 confirmation of technical information that is
19 essential to the customer billing process?

20 A Yes.

21 Q Going back to your surrebuttal, also on
22 page 4 lines 77 to 79, you reference process quality

1 assurance practices common in the utility industry,
2 correct?

3 A Yes.

4 Q And you did not attach those to your
5 testimony, did you?

6 A It's my opinion from working in the
7 industry.

8 Q Okay. So there -- nothing that you can
9 provide a citation to?

10 A No.

11 Q And you didn't discuss any of those
12 specifically?

13 A No.

14 Q I would like to move on to some terminology
15 issues that the parties seem to be having.

16 JUDGE HILLIARD: How much longer do you have?

17 MS. BARRETT: I'm over halfway.

18 JUDGE HILLIARD: Hour and a half?

19 MS. BARRETT: I don't think I have gone hour
20 and a half.

21 JUDGE HILLIARD: Pretty close.

22 MS. BARRETT: Really? It's possible I think it

1 could be quicker.

2 JUDGE HILLIARD: All right. Is there a point
3 where we -- at some point we're going to want to have
4 a little break for lunch or whatever. Is there a
5 point, a natural stopping point of what you are doing
6 or what?

7 MS. BARRETT: Yeah I have -- I can do several
8 stopping points, I think. If it's okay, I'd like to
9 keep going, maybe, until noon.

10 JUDGE HILLIARD: All right. Let's to go to
11 11:30 and then we'll just have kind of a 5 minute
12 break and go till then.

13 MS. BARRETT: If you want to have a 5 minute
14 break, now is a good time.

15 JUDGE HILLIARD: All right. Let's go.

16 (After a short recess, the
17 proceeding resumed as
18 follows:)

19 BY MS. BARRETT:

20 Q So just before the break I had said let'e
21 move on to some terminology issues. And I would like
22 to talk with you about usage, the term "usage."

1 Would you agree with me that you and
2 Mr. Rumsey seem to quibble about the term "usage" in
3 relation to meter test data?

4 A Yes.

5 Q And in your surrebuttal on page 5, line 95,
6 you state that a portable standard that reports
7 results in watt-hours is reporting usage, correct?

8 A Yes.

9 Q Would you agree with me that the portable
10 standards that ComEd has discussed in it's testimony
11 supply a test load?

12 A Yes.

13 Q And that test load is not the customer's
14 actual load?

15 A Yes.

16 Q So the customers are not consuming that
17 load?

18 A Yes.

19 Q And the customer never actually uses that
20 load?

21 A Yes.

22 Q So those portable standards are not

1 measuring the customer's actual usage, correct?

2 A In that test, yes.

3 Q Okay. Let's talk about measuring versus
4 recording and reporting.

5 At the bottom of page 5 of your
6 surrebuttal, lines 108 to 110, you state, "The chief
7 purpose of a post-installation test of a meter at
8 customer's service location is to determine whether
9 that meter is accurately recording and reporting the
10 customer's energy consumption," correct?

11 A Correct.

12 Q And is your authority for that statement
13 the Commission regulation at 410.155?

14 A Yes.

15 Q And so let's look at that Section, and
16 that's the one titled Installation Inspections.

17 Tell me when you are there.

18 A Ready.

19 Q Okay. And in a moment we'll talk about
20 testing versus inspection. We are going to skip over
21 that for now.

22 I want to focus on the language in

1 this Section as compared to what you state is the
2 chief purpose of a post-installation test of a meter.

3 Can you read Section 410.155 aloud,
4 please?

5 A Yes. Section 410.155 Installation
6 Inspections: "Within 90 days after installation or
7 exchange of any meter with associated instrument
8 transformers and/or phase-shifting transformers, a
9 post-installation inspection shall be made under load
10 to determine if the meter is accurately measuring
11 customer energy consumption."

12 Q Okay. You don't have to read the rest
13 unless you want to.

14 So that talks about measuring customer
15 energy consumption, correct?

16 A Yes.

17 Q And would you agree with me that measuring
18 is different than recording and reporting?

19 A Yes.

20 Q Let's talk about test versus inspection.

21 I believe you state ComEd's position
22 that a test and an inspection are two different

1 things -- actually let's go to page 6 of your
2 surrebuttal, lines 129 to 132.

3 Yeah.

4 So in that testimony there you state
5 that ComEd's position that a test and an inspection
6 are two different things is completely artificial and
7 fallacious, and that ComEd is fabricating this
8 distinction.

9 Is that a correct summary of your
10 statements there?

11 A No. What I said was an accuracy test and
12 an accuracy inspection.

13 Q The line between those two things --

14 A 129 and 130.

15 Q Uh-huh. But it's completely artificial and
16 fallacious.

17 A Right.

18 Q So you also criticize ComEd's distinction
19 between pre-installation testing and
20 post-installation inspection by describing a
21 post-installation at page 8 -- let's see. Line 168
22 to 172, you describe a post-installation as an

1 accuracy inspection that is some sort of skim milk
2 version of an accuracy test. Did I read that
3 accurately?

4 A Yes.

5 Q And at lines 172 to 174 you then state that
6 "This absurd and artificial distinction between an
7 accuracy inspection and an accuracy test is one that
8 ComEd appears to have concocted specifically for use
9 in this case."

10 A I believe that, yes.

11 Q Okay. I would like to look at some
12 dictionary definitions with you. Ms. Lane is going
13 to pass out the next cross exhibits, which I think --
14 we did not end up using 3, so we're going to be 3 and
15 4.

16 MS. BARRETT: Judy, did you pick one already as
17 3? Is "Test" 3?

18 JUDGE HILLIARD: Thanks.

19 BY MS. BARRETT:

20 Q Could you read just the simple definitions
21 of test and inspection aloud?

22 MR. NEILAN: Wait just a moment before we

1 proceed this is ComEd Exhibit Cross -- ComEd Cross
2 Exhibit 3 and Cross Exhibit 4. You've got in Cross
3 Exhibit 4 a definition of "inspect" as a verb, and if
4 we we're going to have that -- it's not a definition
5 of "inspection".

6 MS. BARRETT: Well, at the bottom of the page
7 it says the intransitive verb is "inspection."

8 MR. NEILAN: Correct. But this is a definition
9 of the verb "inspect."

10 JUDGE HILLIARD: Let's not spend any time on
11 this. It's a Merriam Webster dictionary, I venture --
12 I think that these are terms of art, and common
13 definition of the words have little or no relevance
14 to this proceedings. So you have a couple of
15 questions you want to ask that's fine, but let's not
16 spend any time on this.

17 MS. BARRETT: Okay.

18 BY MS. BARRETT:

19 Q I just would -- I'd like to ask you, would
20 you agree with me that Merriam Webster has defined
21 these two terms somewhat differently? You don't have
22 to read them aloud, you can just review them.

1 A No. When I read the definition of
2 "inspect," it says to look at something carefully in
3 order to learn more about it, to find problems, et
4 cetera. The sole purpose in it's condensed form of
5 what we are doing here when we meter a customer's
6 usage is to accurately measure and then record it.
7 So I find no difference between a test as you have
8 defined it and an inspection.

9 Q Did I define "test"?

10 A You just handed me a piece of paper, would
11 you like me to read that too?

12 Q So you say there is no definite distinction
13 between these two definitions?

14 A Not in this case.

15 JUDGE HILLIARD: In the case we are worried
16 about here today? Yes?

17 THE WITNESS: Yes.

18 JUDGE HILLIARD: Okay.

19 BY MS. BARRETT:

20 Q And I thought your answer was also applied
21 to these actual Merriam Webster definitions too that
22 you don't see a distinction between them?

1 A No. If the end result of an inspection is
2 to find problems and the end result of a test is to
3 identify problems, no.

4 JUDGE HILLIARD: Okay. I think we have done
5 enough --

6 MS. BARRETT: Okay. I am done. I am moving
7 on.

8 BY MS. BARRETT:

9 Q So in this case, I'd like to take a look at
10 how the Commission has made a distinction between
11 these two terms in its regulations. So let's look at
12 part 410 again.

13 And we can start with Section 410.150.
14 And that's Meter Accuracy Requirements and that talks
15 about testing in relation to meter accuracy
16 requirements, correct?

17 A I'm catching up to you. Yes.

18 Q And it does not talk about inspection in
19 relation to those accuracy requirements, correct?
20 And I am not talking about what your knowledge from
21 the industry is. I am talking about the Commission
22 regulations.

1 A Those word are not used, correct.

2 Q And now let's look at 410.155.

3 And that is titled Installation

4 Inspections, correct?

5 A Yes.

6 Q And it talks about post-installation

7 inspection. It does not talk about testing, correct?

8 The language of the regulation.

9 A Correct.

10 Q And now let's move to 410.160. That

11 Section is titled Initial Tests, correct?

12 A Yes.

13 Q And if you read that, it actually talks

14 about inspection and testing doesn't it?

15 A Yes.

16 Q So this Section is contemplating inspection

17 and testing being two different things, right?

18 A I don't know the writer's mind.

19 Q So if it wasn't contemplating two different

20 things, it would be like -- it would be like saying

21 testing and testing?

22 A Yes.

1 Q Okay. Let's turn to -- I think we are
2 actually at page 7 of your surrebuttal. Lines 135 to
3 138 you state, "In more than 30 years of engineering
4 and electrical power system commissioning with major
5 utilities and specifically in the context of metering
6 and meter testing, I have never heard anyone in the
7 electric utility industry ever try to draw a
8 distinction between an accuracy inspection of a meter
9 and an accuracy test of a meter."

10 So in those more than 30 years, you
11 were never involved with meters in Illinois, correct?

12 A Correct.

13 Q And in those more than 30 years, you were
14 never involved with meters regulated by the Illinois
15 Commerce Commission, correct?

16 A Correct.

17 Q And are you aware that the Commission's
18 Office of General Counsel has stated that this
19 construction -- of your construction equating test
20 with inspection is contrary to the plain language of
21 the rule?

22 MR. NEILAN: I would object to that.

1 JUDGE HILLIARD: Sustained.

2 MR. NEILAN: Strike that.

3 JUDGE HILLIARD: We can argue that later.

4 MS. BARRETT: Okay.

5 BY MS. BARRETT:

6 Q You attribute the phrase "accuracy
7 inspection" to Mr. Rumsey several times in your
8 testimony, correct?

9 A Yes.

10 Q Would you agree with me that he never
11 actually uses that phrase "accuracy inspection"?

12 A No. I believe he does somewhere in his
13 testimony. I may be wrong, but...

14 Q Could you show me where he does?

15 A I'll look. I don't see that.

16 Q So he never actually used that phrase?

17 A Perhaps not.

18 Q Okay. Mr. Bernhardt, do you believe that
19 the Commission has different meter accuracy standards
20 for customers who generate less revenue for ComEd
21 like residential customers than for customers who
22 generate larger amounts of revenue for ComEd like --

1 A Yes.

2 Q You do. You believe there is a different
3 standard?

4 A Yes.

5 Q Can you point me to that different
6 standard?

7 A Certainly. I can -- you can help me with
8 the administrative code citation, but it essentially
9 allows Commonwealth Edison to do a sample meter
10 program as opposed to testing every meter for
11 single-phase or residential-type meters and network
12 style-phase where you might find it in an apartment
13 as opposed to one of the larger customers. That's
14 allowed by the Commission.

15 Q That's allowed by the Commission.

16 A Yes.

17 Q Did you know that's also allowed by the
18 Commission for commercial meters?

19 A The sample testing?

20 Q Yes.

21 A In the shop.

22 Q Yes.

1 A But not in the field. 155 suggests that
2 you have to follow up with a test within 90 days, an
3 inspection that makes sure that the measurement of
4 the customer's energy is correct. Not maybe correct,
5 not partially correct, it's got to be accurate and
6 correct. So by default, you have to inspect or test
7 every meter.

8 Q So your authority for that is 410.155. And
9 your interpretation of that "Installation
10 Inspections" actually meaning a post-installation
11 test?

12 A As part of inspecting, one would perform
13 certain tests.

14 Q That's no -- well you can take that
15 position, but that's not what I am asking you.

16 A Well you just asked me to read the
17 definitions and I did.

18 JUDGE HILLIARD: All right. We are not going
19 to argue here. One of you is going to ask questions
20 one is going to answer. Okay? No colloquy unless
21 it's a response.

22

1 BY MS. BARRETT:

2 Q So your authority for this proposition that
3 there's different standards is 410.155?

4 A In part.

5 Q What is the rest of the part?

6 A The -- and I don't know the piece of the
7 administrative code that allows the sample testing
8 specifically.

9 MR. NEILAN: I believe it's 410.180.

10 BY MS. BARRETT:

11 Q Are you saying that there is a difference
12 between sample testing -- that sample testing does
13 not apply to both residential and commercial?

14 A As I read 410.180, it says, "An entity that
15 chooses to use sample testing shall use procedures
16 prescribed with one of the following documents..., "
17 and they list some standards.

18 And it says, "The entity shall divide
19 the meter population into homogenous groups
20 consisting of meters of the same basic type and
21 purpose. All meters within each homogenous group
22 shall be eligible" --

1 MS. BARRETT: I don't want to cut you off at
2 all, I just want to try to move this along quickly.

3 Do you understand 410.180 to apply to
4 both residential and commercial meters?

5 A No.

6 Q What do you understand it to apply to?

7 A Residential, single-phase and
8 network-style.

9 Q Only residential?

10 A Nontransformer-rated.

11 Q And is it your understanding that there is
12 no other regulation that allows you to use sample
13 testing for commercial meters?

14 A I am not aware of that.

15 Q Is that the entirety of the basis for your
16 position that there is different standards?

17 A Yes.

18 MS. BARRETT: I am actually almost done. The
19 rest of my questions relate to exhibit 3.1. I would
20 love to just power through and do them, but I can
21 also -- we can brake here.

22 JUDGE HILLIARD: How long will it take?

1 MS. BARRETT: How long will it take? I think
2 we can do it in 15 more minutes.

3 JUDGE HILLIARD: Is that all right? Everybody
4 okay with 15 minutes?

5 MR. NEILAN: Just some housekeeping, have we
6 moved to admit 3.1? I think there was a question
7 about that initially. I would move to admit it.

8 JUDGE HILLIARD: They are admitted subject to
9 cross-examination. So I think that's still to come.

10 BY MS. BARRETT:

11 Q Okay. Let's look at your 3.1. The pages
12 are not numbered. So we are going to start with
13 Slide 2, the one right after the title page.

14 A Yes.

15 Q And the third bullet down there, could you
16 read that out loud.

17 A Current transformers can be visually
18 confirmed using nameplate data.

19 Q And that -- are you aware that that's
20 actually what ComEd does in it's post-installation
21 inspection?

22 A Yes.

1 Q And so now let's move to the third slide.
2 The next one that's entitled Electrical Power
3 Metering System Components.
4 You show one power service cable, the
5 red line, right?
6 A Yes.
7 Q One CT, that's the circle?
8 A Yes.
9 Q And are you aware that in this case there
10 would actually be three sets of power cables and
11 three CTs?
12 A Yes.
13 Q And are you aware we actually provided a
14 picture of a CT?
15 A I have seen it, yes.
16 Q Installation of 3 CT? Okay.
17 Let's go on to the next slide entitled
18 Electrical Power Metering System Theory of Operation.
19 And you have an arrow -- you have a white arrow going
20 down and a white arrow going up?
21 A Yes.
22 Q What does the white arrow going up

1 represent?

2 A The return current back to the current
3 transformer.

4 Q And is that also called, like, negative or
5 neutral?

6 A Or common.

7 Q Or common.

8 And the picture of the CTs that we
9 provided, excuse me -- that's ComEd Exhibit 1.05. If
10 you could flip to that and let me know when you are
11 there?

12 A Yep. I'm there, thank you.

13 Q Would you agree that the wire -- two wires
14 in the back-right with the little white tapes on
15 them, that's actually where the common is in this
16 picture?

17 A On the current transformers? The
18 secondary, the current --

19 Q In this installation?

20 A Yeah, the secondary. The white wires
21 connected to the secondary.

22 Q Oh, no, no, no. Not on the CTs. I am

1 talking about the -- in the --

2 A Oh, in the far right.

3 Q Fair right corner.

4 A That's the neutral conductors of the

5 electrical service.

6 Q The common?

7 A Yes.

8 Q The same as you have represented in this

9 arrow.

10 And you have it attached to the -- you

11 have it in the wire and the meter?

12 A No.

13 Q Your arrow is not on the wire and meter?

14 A The -- I have two individual poles of the

15 test switch. The one where the arrow is pointing

16 back towards the CT, towards the top of the page, is

17 the common terminal. And they would be connected --

18 for simplicity I didn't draw the complete schematic,

19 but that's essentially what that white wire would be.

20 Q Let's go on to the next slide.

21 You are using a test meter here,

22 correct?

1 A Yes.

2 Q And I think you testified earlier today
3 that when you say that you mean -- well, actually, I
4 don't think that's what you said.

5 This is not a portable standard,
6 correct?

7 A Yes, it is. If you use it in this
8 application, it is a certified as accurate test
9 instrument that you would use in this application to
10 be sure that the customer meter is recording exactly
11 the same amount of energy the customer is using at
12 that instant in time. And then compare those two
13 results as you accurately described in that division
14 problem where you take the one over the other.

15 Q So. Is this -- when you say test meter
16 here, does that mean the same thing as meter
17 standard?

18 A Yes.

19 Q Okay. So just sort of flipping ahead.
20 It's three slides I guess.

21 A Uh-huh.

22 Q To the one where you say, "A common method

1 used for confirming a power meter accuracy is to
2 series....," there you have a meter standard?

3 A Yes.

4 Q But that means the same thing as a test
5 meter?

6 A That's correct.

7 Q So I guess I'm a little confused as to why
8 you use two different terms in the same document.

9 A Because -- for clarity.

10 Mr. Rumsey is referring often to shop
11 testing and the field testing as we described, where
12 we isolate using the test switches. And in the
13 industry, that type of watt-hour standard is
14 different than a accurate portable test meter.

15 And I'm just making that distinction
16 because I don't want you to be confused that the
17 thing that's generically known as a meter test
18 standard is exactly the same device that we would use
19 as a meter test standard in the other application as
20 I described it.

21 Q Okay. So test meter is what you use in
22 your other application?

1 A The test meter standard.

2 Q Well, it doesn't say test meter standard
3 here, it says test meter.

4 A I will correct it. Now.

5 Q So every time in your PowerPoint that you
6 refer to test meter --

7 A That's correct.

8 Q -- you mean to say "test meter standard"?

9 A Yes.

10 Q And when you -- and that applies to your
11 testing using the customer's load?

12 A Correct.

13 Q And when you say in your PowerPoint, "Meter
14 standard," that is what Mr. Rumsey says is a portable
15 standard?

16 A Correct. And that's the one -- just for
17 clarification -- that reads watt-hours and not
18 kilowatt-hours. We explored that area where you seem
19 to feel there is a difference between that and case
20 in point, it's not.

21 Q These meter standards as shown in you
22 PowerPoint can report in percentage of accuracy,

1 percentage of error, or watt-hours?

2 A Yeah.

3 Q These test meters in your PowerPoint can

4 report in kilowatt-hours; is that what you're saying?

5 A No. And they can do comparative analysis.

6 Q They can report in kilowatt-hours or

7 percentage of error or percentage of accuracy?

8 A Correct.

9 Q Anything else that they can report in?

10 A Yes. Depending upon the sophistication of

11 the device, they are capable of a lot more power

12 quality. Variables that you will often hear that,

13 you know, happen out in the world, that a simple

14 watt-hour standard is incapable of. So it's a much

15 more powerful device.

16 Q Okay. So going back to this slide where we

17 have the test meter that's titled A Common Method For

18 Confirming a Power Metering System.

19 A Yes.

20 Q This test meter does not reveal anything

21 about the CT size and type, correct?

22 A Correct.

1 Q And you are doing a comparison between the
2 test meter and the customer meter?

3 A Correct.

4 Q And part 410 does not discuss test meters,
5 correct? Specifically, test meters? If you don't
6 know, that's okay.

7 A I don't know.

8 Q I don't want to keep everyone from lunch.

9 A And let me clarify that.

10 The test meter being in front of the
11 customer's installation and doing exactly what
12 Mr. Moore had done where he said these are a certain
13 size of CT and type. He would then program that into
14 the test meter as part of that field certification,
15 you know, testing, and it would be very obvious then
16 to, you know, the meter tester that that is recording
17 a lot more using the multipliers than what the
18 customer meter would. And you would know instantly.

19 Q But your answer was actually that you don't
20 know if part 410 allows for test meters?

21 A Give me a moment. You asked me not to --

22 Q No. I don't mean to ask you not to, I said

1 it's okay if you don't know.

2 A Not really.

3 Well, it says must be made "under load

4 to determine if the meter is accurately measuring

5 customer energy consumption. "And it talks about all

6 associated instrument transformers and devices.

7 Q Where you reading from?

8 A 140.155.

9 MR. NEILAN: That's 410.

10 THE WITNESS: Oh, I'm sorry 410.155.

11 MS. BARRETT: 410.155. Okay. That same one.

12 BY MS. BARRETT:

13 Q But that doesn't discuss test meters.

14 A I don't know how else you would test the

15 accuracy without a test meter though.

16 Q Okay.

17 A You know, I am not sure you could

18 accomplish the objective of that rule without having

19 a test meter.

20 Q Fair enough. Have you answered my question

21 as to whether part 410 discusses test meters?

22 A I'm not aware that it does.

1 Q Okay.

2 A Yeah.

3 Q Let's go on to the next slide

4 which -- losing track a little because there's no

5 numbers. But this one is titled Confirming a Power

6 Metering System Is Installed Correctly Is to Make

7 Temporary Connections to a Test Meter and Compare.

8 A Yes.

9 Q Okay. So in this one you've got pole

10 parallel circuit installed, correct?

11 A Correct.

12 Q And that's an entire second set of

13 equipment, CTs and a meter?

14 A Yes. And if you look at the exhibit -- and

15 Mr. Neilan can help me -- for the TESCO equipment

16 that we proposed, it has all of that stuff. And what

17 you will notice is it's very portable. It's big

18 alligator clips that you would grab the primary

19 conductors of the customer's service as we saw in

20 that photograph. And they would be the -- you know,

21 you can program the ratios, and you would actually,

22 as you say, in parallel, look at the two meters

1 simultaneously and understand whether or not you are
2 getting the same -- what I'll say is primary reading,
3 not just the watt-hours or the pulses, but the
4 weighted pulses because that's what you are looking
5 for.

6 Q So you are talking about your 2.2, which is
7 the burden tester?

8 MR. NEILAN: 2.1 I think is the portable
9 standard and 2.1 is the CT burden --

10 MS. BARRETT: 2.2, you mean.

11 MR. NEILAN: 2.2. Excuse me.

12 THE WITNESS: And it's specifically made to
13 check the ratio of the CTs.

14 BY MS. BARRETT:

15 Q Right. It's made to check the ratio of the
16 CTs but it doesn't then hook into the meter. It just
17 checks to make sure the CTs are accurately stepping
18 down power.

19 A And measures the customer's energy usage
20 simultaneously. It's a full functioning meter.

21 Q That burden tester is a full functioning
22 meter?

1 A Correct.

2 Q Let's take a look at that 2.1 -- or 2.2, I
3 guess. See to me, that says...

4 A You are reading a TESCO catalogue numbered
5 1047.

6 Q Yes.

7 A Okay.

8 Q Where does it indicate on there that it
9 also hooks up to the meter and makes sure --
10 essentially does a meter test?

11 A If you look --

12 JUDGE HILLIARD: Is there a document I could
13 take a look at?

14 MS. BARRETT: Yes, sorry. It's his exhibit,
15 LAZ Exhibit 2.1 -- 2.2.

16 MR. NEILAN: 2.2.

17 JUDGE HILLIARD: All right. Go ahead. Thank
18 you. Okay. I have seen this before.

19 BY MS. BARRETT:

20 Q So just -- just because we took a little
21 break, the question is, Where does it indicate on
22 this sheet that this burden -- CT ratio burden tester

1 also does a complete meter test?

2 A It doesn't test the accuracy of the meter,
3 it tests the accuracy of the current transformers.

4 Q It makes sure that the current transformers
5 are accurately stepping down the power usage?

6 A Correct.

7 Q That's all it does?

8 A Yeah.

9 Q Okay.

10 A And what you can do -- and there's
11 certainly no technology lead we have to make -- you
12 could have a completely separate power analyzer
13 connected as I have shown in that picture in parallel
14 and do exactly what you just suggested. Where I
15 would compare that meter to the customer's meter, and
16 you would be able to do it, there is no reason not
17 to. The issue here was the current transformer, so I
18 just wanted to show that one could check those live.

19 Q So I am unclear about in your Exhibit
20 3.1 --

21 A Uh-huh.

22 Q This test current transformer and test

1 meter that you've got hooked up here. It is not the
2 type of equipment that's in 2.2. It is a actual
3 second installation, where you build a second CT
4 cabinet and put in three new CTs, no?

5 A No.

6 Q This picture is depicting 2.2?

7 A If you look at the bottom of that page you
8 see some accessories. Do you see the little -- do
9 you see those?

10 Q Yeah.

11 A Those you just temporarily click on the
12 wires.

13 Q So this picture in your slide is depicting
14 a CT ratio burden tester?

15 A Or a power measuring standard meter, where
16 you could do it either -- just to check the CT
17 ratios, there are other devices that I mention here
18 where we did the series tests under a customer load.
19 You can take that same meter and basically apply it
20 without seriesing to make sure -- if you knew you had
21 a problem you would do it in parallel.

22 Q You would hook up this CT ratio burden

1 tester and then you would hook up --

2 A The additional meter that could measure the
3 energy and mimic what the customer's meter is doing.

4 Q Okay. So in this picture it's a burden
5 tester?

6 A And a CT ratio tester.

7 Q Right that's what that circle is there?

8 A That's correct. Because Mr. Rumsey's
9 testimony went to great length about not being able
10 to do that.

11 Q I don't think there is a question pending.
12 The next slide, the title is a little
13 jumbled. I think there are some extra words in
14 there. It says confirming a power metering system a
15 current transformer ratio while energized can be
16 accomplished using a CT test instrument.

17 A No. That's not in mine. I don't know -- I
18 took that one out.

19 Q It was in the one that you filed.

20 A Okay.

21 Q So does yours end with the one we just went
22 over?

1 A Yes.

2 Q Okay and the one that was filed has three
3 more slides.

4 A Yeah, and I've just got -- after we do the
5 isolation tests, the common method for confirming a
6 power meter -- I'm sorry --

7 Q They're not numbered so let's go back to
8 the beginning and count 1, 2, 3, 4, 5, 6, 7. I'm on
9 Slide 7?

10 A Perfect.

11 Q You have Slide 7?

12 A Yes.

13 Q Okay.

14 So the title -- I think "power
15 metering system" is not supposed to be in that title.
16 If you read it, you could say, "Confirming a current
17 transformer ratio while energized can be accomplished
18 using a CT test instrument."

19 Is that what it's meant to say?

20 A That one is the slide I took out.

21 Q So this --

22 THE WITNESS: Can I come over and look at it?

1 MS. BARRETT: Yeah. Do you want to give him --
2 THE WITNESS: No. I see what page you're on.
3 Take that out.
4 MS. BARRETT: Well, I can't just --
5 THE WITNESS: Okay.
6 MS. BARRETT: -- take it out.
7 MR. NEILAN: It's in the exhibits.
8 THE WITNESS: Okay.
9 MR. NEILAN: But we filed it already.
10 JUDGE HILLIARD: Are you agreeing that the
11 words "power," "meter," and "system" should be
12 removed?
13 THE WITNESS: No. I just -- it's wrong. You
14 can leave it in there. You can test certain
15 characteristics about the CT, where you cannot test
16 the ratio with that test instrument.
17 BY MS. BARRETT:
18 Q This is not the burden test -- the CT ratio
19 burden tester?
20 A It is.
21 Q This is what -- is Exhibit 2.2?
22 A Yeah.

1 Q Okay. And in this case, the current
2 transformers have always functioned accurately,
3 correct? They've accurately stepped down the power
4 for the entire period at issue in this case?

5 A I don't know.

6 Q You don't know?

7 A No.

8 Q Do you know that the CTs are still in use
9 in this case?

10 A No.

11 JUDGE HILLIARD: Could you get the microphone a
12 little closer to your face?

13 THE WITNESS: Yeah. Sorry.

14 BY MS. BARRETT:

15 Q Okay. So now we go to the next slide,
16 which is the second to last one.

17 A Yes.

18 Q It looks to me like this is actually the
19 closest scenario in your PowerPoint to ComEd's method
20 of testing meters; is that correct?

21 A That's correct.

22 Q And except for -- you got phantom load as

1 it's own thing, and in ComEd's tests, the phantom
2 load comes from the meter standard; is that correct?

3 A That's correct.

4 Q Okay. And then the next slide looks to me
5 like it's just a duplicate of Slide 2; is that
6 correct?

7 A That's correct, yes.

8 MS. BARRETT: I believe I have no further
9 questions, if I could just have a moment to make
10 sure.

11 JUDGE HILLIARD: Sure.

12 (After a short recess, the
13 proceeding resumed as
14 follows:)

15 MS. BARRETT: So, your Honor, I have no further
16 questions.

17 MR. NEILAN: Your Honor, I have two or three
18 questions on Redirect --

19 JUDGE HILLIARD: Sure.

20 MR. NEILAN: -- for that.

21

22

1 REDIRECT EXAMINATION

2 BY

3 MR. NEILAN:

4 Q Mr. Bernhardt, earlier when you were being
5 questioned, Ms. Barrett mentioned the term "metering
6 system."

7 Would you also understand the term
8 "metering installation" and "metering system" to mean
9 pretty much the same thing?

10 A Yes.

11 Q And then earlier you were discussing
12 portable standards and whether they gave reading in
13 watt-hours or in percentages of accuracy.

14 Is it your experience that the typical
15 portable standard would be able to give those various
16 readings if the operator simply selects a switch on
17 the portable standard or whatever control yields
18 watt-hours versus percentage of accuracy versus VAR,
19 whatever is read?

20 A Yes.

21 Q And then earlier, Ms. Barrett asked you
22 whether Part 410 of the ICC regulations defines test

1 meter.

2 Your understanding of the term "test
3 meter" would be essentially what the ICC regulations
4 defines as a standard meter for testing?

5 A Yes.

6 MR. NEILAN: That's all I have.

7 JUDGE HILLIARD: Redirect, I guess?

8 MR. NEILAN: Cross.

9 JUDGE HILLIARD: Re-cross. I'm sorry.

10 MS. BARRETT: I'm just confused by the last
11 question and answer when you said -- the question, I
12 think, said "standard meter for testing."

13 What I am asking --

14 MR. NEILAN: I'll rephrase the question.

15 BY MR. NEILAN:

16 Q Earlier, Ms. Barrett asked you about test
17 meters.

18 Is your understanding or use of test
19 meters the same as what the ICC regulations in Part
20 410 would refer to as a standard, whether that would
21 be a reference standard or a portable standard?

22 A Yes.

1 RE-CROSS EXAMINATION

2 BY

3 MS. BARRETT:

4 Q I think I do have a redirect [SIC] then.
5 Because I think I asked you that same exact question
6 and you said -- you indicated to me that they were
7 different things. They could be used for the same
8 purpose -- or a similar purpose.

9 A There's multiple devices that would fall
10 under that definition. It's not just limited to a
11 watt-hour test standard that you would do the test in
12 isolation as we've discussed this morning, but rather
13 it could also apply to the sorts of devices that I've
14 shown you in that poorly-put-together PowerPoint
15 slide.

16 They all have to fall under the same
17 sort of scrutiny in terms of accuracy and quality and
18 dependability. So they are just as integral to
19 testing a meter. The different devices have to be
20 relied upon just as heavily, and there's no
21 differentiation between them.

22 Q But the test meter is something different

1 than the portable standard?

2 A That's absolutely correct. But nonetheless
3 has to meet the same criteria as per the regulation
4 for it's capability and accuracy and repeatability.

5 MS. BARRETT: No further questions.

6 JUDGE HILLIARD: Okay. Should we break or we
7 got something else?

8 MS. BARRETT: I would, just before we forget,
9 like to move for admission of ComEd Cross Exhibit 2,
10 which was the affidavit of Mr. Bernhardt.

11 JUDGE HILLIARD: Not the others?

12 MS. BARRETT: I don't think so. I mean, I'm
13 happy to, but they were dictionary definitions and
14 Part 410. I don't think it's necessary.

15 JUDGE HILLIARD: Any objection?

16 MR. NEILAN: Well, she's not moving --
17 Counsel's not moving for -- to use ComEd's cross
18 exhibits 3 or 4; is that correct?

19 MS. BARRETT: I'm only moving for admission of
20 ComEd Cross Exhibit 2.

21 MR. NEILAN: Okay. No objection.

22 JUDGE HILLIARD: ComEd Cross Exhibit 2 will be

1 admitted.

2 (ComEd Cross Exhibit

3 No. 2 was entered into

4 evidence.)

5 MS. BARRETT: Should we deal with the

6 admissibility of 3.1?

7 JUDGE HILLIARD: Which one is 3.1?

8 MS. BARRETT: That's the PowerPoint.

9 JUDGE HILLIARD: All right. Is that --

10 MS. BARRETT: I guess our position -- while I

11 generally do not like to oppose the admission of

12 evidence, I think this PowerPoint is fairly confusing

13 and does not aide, it actually harms in

14 understanding. And I think even as we were going

15 through it, Mr. Bernhardt indicated there are some

16 errors or slides that should not be in there.

17 JUDGE HILLIARD: Well, I think --

18 MR. NEILAN: If I may respond, your Honor.

19 JUDGE HILLIARD: Go ahead.

20 MR. NEILAN: To the contrary, I think Exhibit

21 3.1 explains most of the testing scenarios that we

22 were asking about, and, in fact, gives a good visual

1 record of that.

2 To the extent that there is a
3 diagrammatic or schematic difference, or anything of
4 that nature that's found confusing, you can
5 cross-examine -- well, you've already cross-examined.

6 JUDGE HILLIARD: They already cross-examined.

7 Here. My thought is that you have an
8 account with certain acknowledgments that there might
9 be a word which is inappropriate or whatever.
10 Overall, I find the exhibit helpful, and your motion
11 to deny it is denied.

12 Anything else?

13 MS. BARRETT: No, your Honor.

14 JUDGE HILLIARD: All right. What do you think?
15 Try for 1:00 o'clock?

16 MR. NEILAN: 1:00 o'clock.

17 JUDGE HILLIARD: Is that enough time?

18 Then we'll be adjourned till 1:00.

19 (Whereupon, a luncheon
20 recess was taken to resume
21 at 1:00 p.m.)

22 MR. NEILAN: I'm ready.

1 MS. BARRETT: Are you ready? Okay. So we'll
2 bring Mr. Rumsey up first.

3 MR. NEILAN: Or should we do Ms. Spitz first
4 because I have a few questions for her that are
5 probably going to be shorter?

6 MS. BARRETT: That's okay. I think she's going
7 to stay anyway.

8 MR. NEILAN: Okay.

9 MS. BARRETT: So we'll go in the order of their
10 exhibits.

11 MR. NEILAN: Okay.

12 THOMAS R. RUMSEY, JR.,
13 called as a witness, having been first duly sworn,
14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY

17 MS. BARRETT:

18 Q Mr. Rumsey, will you state and spell your
19 full name for the record, please.

20 A Thomas R. Rumsey, Jr., R-U-M-S-E-Y.

21 Q And by whom were you employed prior to
22 retirement?

1 A Commonwealth Edison.

2 Q And what was your final position there?

3 A I was a Meter Mechanic Special.

4 Q Have you ever written testimony in this
5 proceeding?

6 A Yes.

7 Q The first piece of testimony that I'd like
8 to draw your attention to is marked as ComEd Exhibit
9 1.0, if you want to turn to it.

10 A Yes.

11 Q And it is entitled "Direct Testimony of
12 Thomas R. Rumsey, Retired Meter Mechanic Special on
13 behalf of Commonwealth Edison Company," and it
14 consists of 16 pages of questions and answers, and
15 attached Exhibits 1.01 through 1.09.

16 As described, is this your direct
17 testimony in this proceeding?

18 A Yes, it is.

19 Q Was it prepared by you or under your
20 direction or control?

21 A Yes.

22 Q And is true and correct to the best of your

1 knowledge and belief?

2 A Yes.

3 Q If I were to ask you the same questions
4 today, would your answers be the same?

5 A Yes.

6 MS. BARRETT: Your Honor, Exhibits 1.0, 1.01
7 through 1.09 were filed on eDocket on February 18th,
8 2016.

9 BY MS. BARRETT:

10 Q The second piece of testimony that I would
11 like to discuss is ComEd Exhibit 5.0, which is
12 entitled Rebuttal Testimony of Tom Rumsey, Retired
13 Meter Mechanic Special on behalf Commonwealth Edison
14 Company.

15 (Phone Interruption.)

16 JUDGE HILLIARD: Excuse me.

17 (A discussion was held off
18 the record.)

19 BY MS. BARRETT:

20 Q Okay. So we've turned to Exhibit 5.0,
21 which is entitled Rebuttal Testimony of Thomas R.
22 Rumsey, Retired Mechanic Special on behalf of

1 Commonwealth Edison Company. It consists of 12 pages
2 of questions and answers.

3 Is this your rebuttal testimony in
4 this proceeding?

5 A Yes.

6 Q Was it prepared under your direction and
7 control?

8 A Yes.

9 Q Is it true and correct to the best of your
10 knowledge and belief?

11 A Yes.

12 Q If I were to ask you the same questions
13 today, would your answers be the same?

14 A Yes.

15 MS. BARRETT: Your Honor, Exhibit 5.0 was filed
16 on eDocket on March 7th, 2016. I hereby move the
17 ComEd exhibits that I've described into the record.
18 And, if you prefer, I can list them again.

19 JUDGE HILLIARD: Any objections?

20 MR. NEILAN: No objections, your Honor.

21 JUDGE HILLIARD: The exhibits described by
22 Counsel relating to Mr. Rumsey will be admitted into

1 the record.

2 (ComEd Exhibit Nos.
3 1.0, 1.01 through 1.09, and
4 5.0 were admitted into
5 evidence.

6 MS. BARRETT: And I tender Mr. Rumsey for
7 cross-examination.

8 JUDGE HILLIARD: Please note for the record
9 that Mr. Rumsey was previously sworn.

10 CROSS-EXAMINATION

11 BY

12 MR. NEILAN:

13 Q Good afternoon, Mr. Rumsey. I think we
14 we've met before, actually --

15 A Yes.

16 Q -- in connection with the Amcor matter back
17 in 2011, I believe.

18 A Yes.

19 Q So is it correct that your title when you
20 left Commonwealth Edison was Meter Mechanic Special?

21 A Yes.

22 Q In what year did you retire from

1 Commonwealth Edison?

2 A I retired -- my last day, my last official
3 day was September 29th, 2013.

4 Q And you became an employee of ComEd first
5 in 1979?

6 A That's correct.

7 Q Prior to joining Commonwealth Edison, did
8 you ever work for any other utility?

9 A No.

10 Q Prior to joining Commonwealth Edison, did
11 you have any other electrical meter service
12 background or did you work for any electrical meter
13 service company?

14 A No.

15 Q So your metering service experience and
16 training essentially began at Commonwealth Edison; is
17 that correct?

18 A That's correct, yes.

19 Q Would you be so kind as to refer in your
20 Direct Testimony Exhibit 1.0 to lines 82 to 87.

21 MS. BARRETT: Did you say lines 18 to 87?

22 MR. NEILAN: No, 82. There's a question

1 beginning on 81 and the answer at 82, and then
2 continuing to the first sentence, last question, of
3 line 87 on page 5.

4 THE WITNESS: Okay.

5 BY MR. NEILAN:

6 Q So in answer to the question on line 81,
7 "Does ComEd test all its meter before installing
8 them?" Your answer was "yes."

9 But if we look at line 86 to 87, you
10 say ComEd requires that its manufacturers test all
11 their meters prior to shipping to ComEd.

12 By that, do I understand correctly
13 that Commonwealth Edison delegates meter testing to
14 the manufacturers?

15 A The manufacturers test every meter ComEd
16 buys before ComEd buys them.

17 Q Let me rephrase the question.

18 If the regulations impose any
19 obligation on ComEd to test a meter before it's
20 installed, is it sufficient by your standards that
21 the manufacturer test the meter instead of ComEd
22 itself?

1 A The manufacturer's test results are
2 accepted after ComEd has sample tested a shipment,
3 and then the rest of the shipment is deemed accurate.

4 Q Okay. So once that shipment of meters --
5 let's say you get a new meter in, and that meter
6 arrives at ComEd.

7 ComEd is not going to test that meter
8 individually again; is that correct?

9 A I'm not sure I understand.

10 Q Okay. Just looking back at 86 and 87,
11 ComEd requires that its manufacturers test all new
12 meters prior to shipment.

13 So my question really is, does ComEd
14 do any further testing of meters that are shipped to
15 it?

16 A Yes, they do a sample test of the shipment.

17 Q Okay.

18 A But, yes, that's what they do.

19 Q In your sample testing, do you sample test
20 just meters for say residential and small commercial
21 uses, or do you sample test all meters?

22 A All meters, commercial and residential.

1 Q So even if a meter were intended or
2 designed for an instrument or -- excuse me --
3 transformer-related meter installation, that would be
4 sample tested?

5 A Yes. At some point when I first started in
6 the shop, we tested all of those meters. But at some
7 point ComEd came to some sort of agreement with the
8 ICC and we were able to sample test those commercial
9 meters as well.

10 Q In your affidavit, it's correct you state
11 you tested more than 60,000 meters?

12 A Yes.

13 Q And when you say that you tested 60,000
14 meters, by that are you saying that it's 60,000
15 individual meters, or are you looking at batches that
16 were sample tested to add up to 60,000? How would
17 one understand that number?

18 A Well, I've tested over 60,000 meters
19 individually and the tamper room even. So to analyze
20 them for cases like this and for tampering evidence,
21 I've individually tested over 60,000 meters.

22 Q With regard to the 60,000-plus meters that

1 you've tested, how many of those would you say were
2 field calibrations tests?

3 A I'd have to take a guess. Well, let me ask
4 you to clarify. Are you ask- -- let me ask you to
5 clarify the question because I'm not sure how to
6 answer correctly.

7 Q Maybe I can rephrase it to make it easier.
8 Of the 60,000 meters that you tested
9 individually, roughly what percentage of those would
10 be field meter calibration tests?

11 MS. BARRETT: If I could just -- I don't
12 understand what you mean by "field calibration test."

13 MR. NEILAN: They would be essentially tests in
14 the field of meter accuracy, not in the meter shop
15 but in a customer service location.

16 THE WITNESS: So have I tested any meters in
17 the field?

18 BY MR. NEILAN:

19 Q I assume that of the 60,000 that you have.

20 A No. No.

21 Q Okay.

22 A But I have tested -- I have analyzed meters

1 that had been field tested and there were questions
2 about them. And then I was able to not only test
3 that meter that had been tested, in the field, but I
4 also analyzed the test equipment that was used to
5 test that meter in the field.

6 Q Okay. So you personally did not go to a
7 customer service location to do meter testing?

8 A No. But I did test the equipment that they
9 used to do that with.

10 Q Okay. Would that equipment -- by that
11 equipment, are you referring to such things as
12 working standards as they're understood in the ICC
13 regulations or reference standards? That's what
14 you --

15 A Well, working standards and reference
16 standards are different than the ones that are used
17 in the field. And the ones that are used in the
18 field are called portable standards. Those are the
19 ones that I've tested. I have tested the other ones
20 for use in the shop, the standard and the reference.
21 I have done that, but that's separate from the field
22 test, from the portable test standards.

1 Q Okay. So then my next question here may be
2 already answered, but in terms of post-installation
3 inspections, you have not performed any
4 post-installation inspections under 410.155 because
5 your work was in the meter shop as opposed to the
6 field; is that correct?

7 A That's correct.

8 Q If you would so good as to refer to your
9 direct testimony in Exhibit 1.0 at lines 160 to 163.

10 A Is that 160 to 163?

11 Q 160 to 163, yes?

12 A Okay.

13 Q So do I understand correctly by that
14 Commonwealth Edison would provide the current
15 transformer to a customer? So is that something that
16 Commonwealth Edison buys and then delivers to a
17 customer service location?

18 A Yes.

19 Q Okay. And a customer always -- it's not
20 installed by a ComEd technician?

21 A No.

22 Q Okay. After the current transformer is

1 installed, the next step in that process would be for
2 a ComEd tech meter -- I assume it's a field meter
3 service specialist -- to go out and install the
4 meter; is that correct?

5 A No, that would not be the next step.

6 Q Okay.

7 A There would be one step before that.

8 Q Okay. Would you describe what that next
9 step is.

10 A The next step would be to wire the CTs to
11 the meter fitting. Then you would install the meter.

12 Q Okay. I had intended to -- perhaps did not
13 define all that preliminary work was done.

14 A And I'd also like to clarify --

15 Q Sure.

16 A -- that if the wiring from the transformer
17 to the fitting is under 10 feet, ComEd does it, if
18 it's over 10 feet, the customers, the electrician
19 does the wiring.

20 Q Okay. When a ComEd technician went out to
21 install a meter -- and we're assuming all this work
22 that's done on the CT is fully installed -- would

1 that ComEd technician also check the current
2 transformer installation?

3 A They would inspect it, yes.

4 Q Do you know what they did to inspect it?

5 A They would check the wi- -- if you want to
6 take a look at my picture, I don't remember which
7 exhibit it was of mine, but there's a picture that I
8 had of the CTs wired up.

9 Q Yes.

10 A I could give you an example of what I'm
11 talking about.

12 MS. BARRETT: Just for the record, the witness
13 is looking at ComEd Exhibit 1.05.

14 THE WITNESS: Yeah. That's the one. Can I get
15 somebody to turn that one up, if I may?

16 MR. NEILAN: Okay. I have it.

17 THE WITNESS: Okay. So now there's several
18 things that are going to occur during the inspection
19 of this installation here. And I'm only going to
20 talk about what I can see in this picture because I
21 cannot see how it's wired up to the fitting.

22 The first thing is I want to make sure

1 that the wiring going into the line side of the
2 fitting, which would be the top, is correct. I can
3 see from this picture it's incorrect. The B phase,
4 which is black and all way to the left, and the A
5 phase, which is red and in the middle, should be
6 switched with each other. That's an indication this
7 is incorrect.

8 Then I would make sure that the CTs
9 are all facing the correct way. They'd be in the
10 correct polarity so that what we call the high side
11 of the CT is facing up. And essentially I can tell
12 that from this picture because the secondary screws
13 are more towards of top of the CT.

14 JUDGE HILLIARD: Just to make sure we're all on
15 the same page, will you indicate the description of
16 what the CTs are.

17 THE WITNESS: Oh, I apologize. The CTs are
18 those black pieces that go -- do you see the red,
19 like, stripes that go across the top and the bottom
20 and there's the black in the middle?

21 JUDGE HILLIARD: Right.

22 THE WITNESS: That's the secondary part of the

1 CT. And the silver part that runs through that black
2 part that goes vertical -- through that black part is
3 the primary part of the CT. So the high side that
4 I'm talking about would be the portion on the top.

5 If you look at the top of each of
6 those, there's a red, black, and a blue wire coming
7 out of the silver portion. That's as it should be.
8 That would mean that the high side is where it should
9 be.

10 I'm also looking at the coloring is
11 correct. The CT on the left has red, the CT -- and
12 white, which is the common or neutral. The CT in the
13 middle has black and white in the correct places.
14 And the CT on the right has blue and white in the
15 correct places.

16 So I can tell from this that we've got
17 an issue with the installation because of the phases
18 coming through the top. So what it looks like -- or
19 what I'm seeing here looks like the customer's
20 electrician installed the black phase and the red
21 phase incorrectly. That's the type of thing that the
22 tech would be looking at when they do an

1 installation -- I mean, an inspection. Pardon me.

2 BY MR. NEILAN:

3 Q Just to follow up on that.

4 Earlier, I asked you about a field

5 meter inspections, and you obviously have a lot of

6 expertise with regard to current transformer

7 installations.

8 Was it any part of your job duties to

9 go out and check current transformer installations in

10 the field?

11 MS. BARRETT: I just want to object. I think

12 you're misstating. Earlier, you asked him about --

13 MR. NEILAN: Meter testing.

14 MS. BARRETT: Tests.

15 MR. NEILAN: Tests. Okay. Sorry.

16 MS. BARRETT: And you just said inspections.

17 MR. NEILAN: Rephrase the question.

18 BY MR. NEILAN:

19 Q Earlier, you had mentioned not going out

20 for meter tests in-field.

21 Did you test current transformers or

22 inspect current transformers?

1 A Inspect? I have inspected and tested
2 current transformers.

3 Q Okay.

4 JUDGE HILLIARD: At the customer's location, or
5 in the --

6 THE WITNESS: In the shop.

7 JUDGE HILLIARD: In the shop. All right.

8 MR. NEILAN: Oh, okay.

9 THE WITNESS: But I was also involved in the
10 trading department in helping them as well. So I've
11 seen pictures like this and I've seen mock setups as
12 well. So, although, I haven't gone to a customer's
13 location to do this, I have been trained on how to do
14 this.

15 BY MR. NEILAN:

16 Q Is -- if you do that in the shop -- just
17 for my own understanding here -- would a current
18 transformer setup, such as we see in your Exhibit
19 1.05, would that be something that necessarily had to
20 be done at the customer service location, or would
21 you assemble something in the shop and then put it
22 in? Maybe I'm misunderstanding.

1 A No. No.

2 In the shop, what we would do is we

3 would verify each of those three current

4 transformers --

5 Q Okay.

6 A -- are accurately stepping down current and

7 that the phase angle that's coming through the

8 primary side and secondary side are within a range.

9 And then those get sent out and the customer's

10 electrician does the installation.

11 Q Okay.

12 A And our people go out and do the

13 inspection.

14 Q So somebody would go out, and you wouldn't

15 get a picture like this back in the shop and direct

16 someone to correct it; is that correct?

17 A As a normal course, I don't think so. The

18 person would out sent out within 90 days of the meter

19 installation to inspect this. Whether they took a

20 picture or not is...

21 Q Okay. And looking at Exhibit 1.05, all of

22 the current transformers that are depicted in this

1 picture are in a cabinet, correct --

2 A Yes.

3 Q A CT cabinet?

4 A Yes.

5 Q After this installation's done and it's

6 inspected and ComEd has signed off on it, is it

7 correct that this cabinet would be somehow locked or

8 otherwise secured?

9 A Yes.

10 Q If after that cabinet is locked and

11 secured, in order to find out information about this

12 CT setup, would opening the cabinet be required? CT

13 sizes, CT ratios, anything like that?

14 A To verify them, yes.

15 Q But would there be any external information

16 on the CT cabinet?

17 A I believe they will require to write down

18 either CT size or ratio on the outside in a permanent

19 marker. Some sort of permanent marking should be

20 there, and I'm pretty sure it should be on the

21 outside on the fitting, I guess.

22 Q So would it be correct that the ComEd

1 technician would put some kind of mark or label on
2 the outside of the CT cabinet to show that data
3 numbers, and dates --

4 A I guess I'm not sure, to be honest with
5 you, whether it's on the CT cabinet itself or the
6 fitting. And I'm not 100 percent that each tech
7 would do it exactly the same way either. But I do
8 believe that something would be marked on one of
9 those two places. It would be labeled somehow.

10 Q Do you know if they would ordinarily mark
11 the type of current transformer whether as "R" or as
12 a donut?

13 A I don't think so. This is a bar, by the
14 way.

15 Q Yes.

16 A Okay.

17 Q The ones that are depicted in 3.1 are
18 donuts -- our Exhibit 3.1.

19 Would you be so kind as to refer to
20 your rebuttal testimony, Exhibit 5, lines 103 to 105.

21 A Okay. Page 5, did you say?

22 Q On page 5 of 12, yes.

1 A Okay. Gotcha.

2 Q And lines 103.

3 Would you be so good as to read the
4 sentence that you have at line 103, beginning "Thus,
5 whatever."

6 A "Thus, whatever billing impact the CTs have
7 on the meter in the ordinary course of delivery
8 service, calculation of the rate at which the CT
9 stepdown energy uses is not part of the test."

10 Q Okay. By that, do you mean that the
11 current transformers are not relevant to the accuracy
12 of the metering operation?

13 A No, that's not what I mean by that.

14 I'm talking about -- here, I'm talking
15 about testing the meter. Okay? The meter will show
16 its accuracy. The CTs have their accuracy. You have
17 to make sure that the CTs -- the CTs and the meter
18 are certified as accurate before they are installed.
19 Then you have to make sure that they're wired up
20 correctly in order to make sure that those two things
21 are sending the current and the voltage and
22 everything through the meter the way they're supposed

1 to be. I'm talking about the meter test here.

2 That's what I'm talking about.

3 Q Okay. I'm not clear on your answer.

4 You say that whatever billing impact
5 the CTs have on the meter in the ordinary course of
6 delivery service, calculation of the rate at which the
7 CT step down energy usage is not part of the test.

8 Would you not need to find out what
9 that step-down ratio is --

10 A To do the meter test?

11 Q To find out how much meter -- how much
12 usage is going through the meter?

13 A No. If none of the examples that I saw on
14 Exhibit 3.1 would do that either.

15 Q Would the testing that you're referring to
16 in lines 103, 105, would that be done in the meter
17 shop at ComEd?

18 A It would refer to field testing and shop
19 testing of the meter.

20 Q If you would be so good as to refer to your
21 Exhibit 1.03 in your Direct Testimony. Can you give
22 me just a moment if you would, and I will pull it up

1 on the screen.

2 So am I correct in understanding your
3 testimony that when Commonwealth Edison does a
4 post-installation metering test under 410
5 Inspection -- under 410.155, that this is a form that
6 the technician would take with them to the field?

7 A This is the newest version of the form,
8 yes.

9 Q And the technician would take this with
10 them to the field and fill it out.

11 A That's what they're supposed to do, yes.

12 Q On Exhibit 1.03, in the lower left, the
13 date 9/5/2011 appears, does that indicate that this
14 form was first developed on that date?

15 A No. Because it says it's the first -- it's
16 a revision on that date. There's an older form and
17 it was revised on 9/5/2001 -- 2011, I should say.

18 Q Does the zero after "revision" signify
19 anything?

20 A You know, I would've assumed it would have
21 said Revision 1, but this is not the first
22 incarnation, if you will, of this particular form.

1 Q So a different form would have been used in
2 2007?

3 A It would have been -- would have looked --
4 they had to same information on it. It might have
5 been -- what's the word I am looking for? It might
6 have been configured differently, but it would have
7 the same information on it.

8 Q So on this form, the Auxiliary Inspection
9 Form, a little bit below the middle there's a line
10 for CT size, underscore, ratio.

11 A Yes.

12 Q And that information would be circled by
13 the technician -- or is supposed to be circled by the
14 technician?

15 A Well, yeah, it's supposed to indicate what
16 size CTs they found at the installation. Yes.

17 Q Down at the bottom of the form there's an
18 instruction to permanently mark certain information
19 on the outside of the CT cabinet?

20 A That's right.

21 Q And is it your understanding that a meter
22 technician, you know, is supposed to do that?

1 A Supposed to do that, yes.

2 Q In your experience, were there many times
3 or some higher percentage where they failed to mark
4 the cabinet?

5 MS. BARRETT: I'm sorry. A higher percentage
6 than what?

7 MR. NEILAN: I don't know.

8 BY MR. NEILAN:

9 Q Was it a problem at ComEd that people did
10 not mark the CT cabinets?

11 A I'm aware of whether or not ComEd had a
12 problem with whether they marked them or not. I just
13 know they were supposed to. I couldn't tell you how
14 many did or didn't.

15 Q So ideally it would have the meter ratio,
16 the CT size, and type?

17 A Among other things, yes.

18 Q Uh-huh.

19 If this labeling -- if a ComEd
20 technician had gone out to LAZ Parking site within 90
21 days after an installation of the meter in question
22 here and they had access to CIMS records, would you

1 agree that the comparison of those record would have
2 revealed (inaudible.)

3 THE WITNESS: I'm sorry. You have to repeat.
4 I didn't hear.

5 BY MR. NEILAN:

6 Q Just to repeat, if the ComEd technician had
7 gone to LAZ Parking site within 90 days of meter
8 installation, with information from CIMS in this
9 case, would you agree that with that information in
10 hand, it would have revealed the error that's at
11 issue in this case?

12 A If the tech had gone out there with the
13 CIMS information in hand, the tech should have -- I'm
14 going over the procedure in my head. The tech should
15 have verified the CT size. If they had the CIMS
16 information in hand, which they generally don't, but
17 if they did, they should be able to tell that the
18 building multiplier in CIMS doesn't match what they
19 see with the CT.

20 Q And that would have revealed the error in
21 issue in this case; isn't that correct?

22 A It should have, yes.

1 Q Let's assume that the meter technician
2 comes back and he's got the Aux Inspection Form
3 completed.

4 Was it the standard practice then to
5 deliver this to CIMS for input in some fashion?

6 A Okay. They bring this to the inspection
7 and they fill it out. Then they bring it back to
8 their truck where they have that -- they call an MDT.
9 We used to call it a mobile data terminal, but I
10 think they call them mobile dispatch terminal now.
11 And they would enter that into that laptop. They
12 would enter this information into the laptop, which
13 would then be transmitted to someone in the billing
14 department who would then enter it into CIMS.

15 Q Is your understanding that CIMS is kind of
16 the controlling source of data on current
17 transformers, meters multipliers or the billing
18 multipliers. That if there was some doubt or if you
19 want to find out what the current transformer was on
20 a particular installation, you would go to CIMS?

21 A I could go to CIMS and look that up and
22 find out what was listed there.

1 Q Okay. You could go, but is that the source
2 that ComEd -- did ComEd have one place where it
3 stored that type of information?

4 A I'm going to say I think not. CIMS is one
5 place, and then the database for mobile dispatch
6 would have been the other place. Where they would
7 have saved the electronic copy of this, would have
8 been into a database for a period of time. So I'm
9 going to say there should be two places that I'm
10 aware of.

11 Q And the current transformer ratio on a
12 particular customer site could be recorded in either
13 of those?

14 A Well, it would have to be recorded in the
15 mobile dispatch system first, and then transmitted to
16 the CIMS, and then put into CIMS for billing
17 purposes.

18 Q Okay. Let me just make sure I understand
19 your answer correctly.

20 So does that mean that the mobile
21 despatch terminal storage of this information is kind
22 of a step lower than CIMS?

1 A I don't know that I would characterize it
2 that way. I don't think I would characterize it that
3 way.

4 Q So if somebody wanted to find out the
5 current transformer ratio at a particular customer
6 site, would they go to the mobile data or would they
7 go to CIMS?

8 A Well, I suppose it would be who was looking
9 for that information. If a tech was looking for it,
10 they would probably go to the mobile -- I'm going to
11 keep calling it a mobile dispatch because I think
12 that's policy.

13 Q Doesn't matter.

14 A I mean, it doesn't matter, but I believe
15 it's mobile dispatch, so I'll stick with that. And
16 somebody in billing would probably go to CIMS to look
17 up that information.

18 Q Okay. So if a field and meter service
19 technician had, let's say, gotten a reprint of this
20 out of either the mobile dispatch or CIMS before
21 going off to do a post-installation inspection -- so
22 they're going to site with this information that

1 that's been input previously into the CIMS, and it's
2 been there 90 days.

3 Would you agree that with this
4 information in hand, they would have discovered the
5 error at issue in this case?

6 MS. BARRETT: I'm sorry. I'm just going to
7 object because I'm a little confused about the timing
8 there, when they're going.

9 It's already been 90 days, the
10 inspection's done, and then --

11 MR. NEILAN: No.

12 MS. BARRETT: -- someone's going again?

13 BY MR. NEILAN:

14 Q The meter's has been installed, and I
15 assume that this -- is this form completed -- let me
16 just clarify.

17 Is this form completed by the
18 technician who installs the meter, or would it be
19 completed by the technician who does the post-90-day
20 inspection?

21 A It would be the technician who does the
22 post -- the post -- the 90-day post-installation

1 inspection.

2 Q Okay. And if that technician who's doing
3 the post-90-day -- the 90-day post-installation
4 inspection wanted to find out what the current size
5 ratio and other data were for installation, they
6 would go to the mobile dispatch database that you
7 mentioned?

8 A If I understand your question, we're
9 talking about the tech who's going out there to
10 perform the 90-day?

11 Q Uh-huh?

12 A That tech wouldn't have to go anywhere to
13 look up anything. He would actually look at the CTs
14 to see what size they were. He wouldn't have to look
15 up anything in any database. He has the CTs
16 physically right in front of him or her.

17 Q That data is out at the customer service
18 location, correct? He would find that out at the
19 customer service location? But that information
20 might not make it back to CIMS?

21 A He would record it on here for his post --
22 for his -- we both keep saying it this way. The

1 90-day post-installation inspection would have all
2 this CT information in here, and that would get
3 transferred over to CIMS, so, yes.

4 JUDGE HILLIARD: Let me ask something here.

5 The technician goes to install a
6 meter. Is there -- is there data entry regarding the
7 CTs and what not that he inputs at a time
8 contemporaneous with the installation?

9 THE WITNESS: There should be, yes. And then
10 somebody else has to come by and do the inspection.
11 They generally don't like the person who did the
12 installation to do the inspection.

13 JUDGE HILLIARD: That's in the regulation.
14 It says they're not supposed to be the same person.

15 THE WITNESS: Right. Because if I make the
16 mistake, it's harder for me to see it then than it
17 would be for you to see it.

18 JUDGE HILLIARD: Right. But there are two data
19 points there. One is at the time the meter
20 installed, and then there's another one that's
21 supposed to occur when the meter's inspected within
22 90-days thereafter.

1 THE WITNESS: As far as imputing CT information
2 goes?

3 JUDGE HILLIARD: Well, just the data entry. So
4 when you install a meter, you input data into your
5 mobile system.

6 THE WITNESS: Right.

7 JUDGE HILLIARD: And then later on, someone
8 does a post-installation inspection, and they do
9 something.

10 Is it a different form or is it the
11 same form?

12 THE WITNESS: No, it would be the same form.

13 I think I follow where you're going.
14 The person who installs the meter would install the
15 meter and record the meter number and size and type
16 and all that, and the CT sizes and types and all
17 that. And that would get sent to CIMS.

18 And then the post-installation
19 inspection person would come and make sure that the
20 CTs are installed properly and are wired properly,
21 and according to this form, that the current from
22 each of the three phases is running through the meter

1 in a forward or reverse direction. That's what the
2 post inspection installation -- post-installation
3 inspection is for. So, yes, there would be two
4 different data points.

5 JUDGE HILLIARD: Data entry points. And there
6 would two different things in your record system
7 then.

8 THE WITNESS: Right. There would be two --

9 JUDGE HILLIARD: One would be identified as an
10 installation data point and the other one is a
11 post-installation confirmation point.

12 THE WITNESS: Right. And we would refer to as
13 work orders, those would be work orders. But, yes,
14 that's exactly right.

15 JUDGE HILLIARD: That's all I have for right
16 now.

17 BY MR. NEILAN:

18 Q If I could refer you to your Direct
19 Testimony in Exhibit 1.0 at lines 33 to 35 --
20 actually, excuse me. It's 170 to 176.

21 A Still the same, 1.0?

22 Q 1.0, yes.

1 So in this description here, would you
2 be so kind as to read your testimony from line 171,
3 beginning with "The technician makes..." through the
4 end of line 176.

5 A Sure:

6 "The technician makes sure that the
7 current and voltage wiring from the affiliated
8 equipment to the meter fitting is correct.

9 Because the inspection is under load,
10 the technician is able to ensure that the current
11 flowing through the meters forward as opposed to
12 backward or reversed. The point of this is to
13 determine as far as possible without actually testing
14 the meter, that the meter is accurately measuring
15 customer energy consumption."

16 Q Is it -- do I understand correctly that
17 this description that you've just given, is that all
18 the steps that are involved in an inspection, a
19 post-installation inspection under 410.155?

20 A To make sure that --

21 MS. BARRETT: Well, I just want to object. I
22 think you're leaving out the first sentence of his

1 testimony, which clearly says there's another step.

2 MR. NEILAN: The inspection form?

3 MS. BARRETT: Yes.

4 MR. NEILAN: Okay. So he fills out the
5 inspection form and then does the other physical
6 activities. The reason I focused on those was
7 because these are physical activities.

8 BY MR. NEILAN:

9 Q So he's filled out the Inspection Form and
10 he's done these other items that you describe in
11 lines 170 through 176.

12 Is the post-installation inspection
13 done?

14 A At that point, if everything is correct as
15 it should be, then yes.

16 Q Okay. So if I could refer you to --
17 actually, it's your Exhibit -- 410.155. It's
18 supposed to be the ComEd Cross Exhibit 1.

19 MS. BARRETT: Oh, our ComEd Cross Exhibit?

20 MR. NEILAN: Yes.

21 MS. BARRETT: We can get you another one.

22 Let's get the witness his own or give him back

1 another one. It's the whole part. Just give him the
2 whole Part 410.

3 JUDGE HILLIARD: Does anybody know the word
4 "currentness" on each page means?

5 MS. BARRETT: I believe it is, like, a Westlaw
6 function so you know if it's a current law or
7 overruled or something like that. I think it's a
8 link and if you click on it, it will give you --

9 JUDGE HILLIARD: Oh, I see. Okay.

10 THE WITNESS: I have it.

11 BY MR. NEILAN:

12 Q So just to review the steps here, for the
13 post-installation installation inspection under
14 410.155, the FNMS technician goes to the customer
15 service location, he fills out the Aux Inspection
16 Form, he makes sure that the current voltage wiring
17 and the equipment to the meter fitting is correct,
18 does an inspection under load and makes sure that the
19 current is flowing through the meter in a forward
20 direction, rather than backward; is that correct?

21 MS. BARRETT: I'm going to object to -- I think
22 you just misstated his testimony.

1 MR. NEILAN: Okay.

2 MS. BARRETT: Did you say, "Does an inspection

3 load"?

4 MR. NEILAN: Does. He does --

5 MS. BARRETT: Because this is just when he

6 says, "because the inspection is under load."

7 MR. NEILAN: Oh, okay.

8 MS. BARRETT: I mean, it just sounds like

9 you're making another thing.

10 MR. NEILAN: I meant -- I meant -- yeah.

11 "Because the inspection is under load."

12 MS. BARRETT: Okay.

13 BY MR. NEILAN:

14 Q But the point is that the check of the

15 meter that's done is just to make sure that the meter

16 is moving forward as of current flows through it; is

17 that correct?

18 A Yes.

19 Q Okay. Then, if you would look at Section

20 410.155 in ComEd Cross 2, and if you would read the

21 second line of that from a post-installation just to

22 the end of that sentence.

1 A "A post-installation inspection shall be
2 made under load to determine if the meter is
3 accurately measuring customer energy consumption."

4 Q Okay. And then -- if what the meter
5 technician does is go to the customer service
6 location and check the meter to make sure it's going
7 forward and not backward, how does that confirm that
8 the meter is accurately measuring customer energy
9 consumption?

10 A Because before the meter was installed, it
11 was certified as being correct; before the CTs were
12 installed, they were also certified as being -- I
13 shouldn't say correct. I should use the word
14 "accurate." And same thing with the CTs. If they're
15 not wired up together correctly, they can't function
16 correctly.

17 So once we've established that the CTs
18 are accurate and the meter is accurate and the
19 connection between the two is proper and the meter --
20 and the current and everything is flowing through
21 forward, we can say that it's accurately recording
22 the customer's usage because they've all been

1 certified as being accurate. Now they're being
2 certified -- or, not certified, but they're being
3 inspected so that they're hooked up correctly.
4 That's why we can say it's accurate.

5 Q Did you prepare ComEd Exhibit 1.03?

6 A No.

7 Q If I could refer you to -- let's see which
8 one of the ComEd exhibits this is. It's the meter
9 screenshot report. It is 1.06.

10 A Okay.

11 Q So is this the type of -- are you familiar
12 with this?

13 A Oh, yes.

14 Q Is this the same type of screen that would
15 relate to this data in 2007? I mean, would you see
16 this type of screen or this screen itself?

17 A Would I see it where?

18 Q In ComEd's computer records on the meter?

19 A If I'd search for it, I'd see it, yes.

20 Q Is there anywhere on Exhibit 1.06 where
21 ComEd registers that it has done a post-installation
22 inspection?

1 A No. Because this is a record of a meter
2 test.

3 Q So is there a separate data entry form or
4 screen for that activity?

5 A I don't understand what you mean.

6 Q When you do a meter test that's required --
7 let's say you do a meter test that's required -- this
8 screen would be filled out by whoever is doing the
9 test or the appropriate person at ComEd.

10 A Okay.

11 Q Then you do a post meter -- a
12 post-installation meter inspection.

13 Is there any other data entry that
14 records that?

15 A The reports what? This?

16 Q No.

17 Okay. Someone's gone out and done a
18 required meter inspection, a post-installation meter
19 inspection.

20 What evidence arises from that, and
21 how does ComEd record it?

22 MS. BARRETT: I think that's been asked and

1 answered several times.

2 BY MR. NEILAN:

3 Q Well, is there a form? My question,
4 really, is there another screen form such as this for
5 that because it doesn't appear on this?

6 A I'm still not sure I understand what you
7 mean.

8 Q There's a screen. ComEd Exhibit 1.06 is a
9 screenshot for data entry on meter test data.

10 A Yes.

11 Q Yes. Okay.

12 Is there an analogous or parallel-type
13 of form, whether on the computer screen or elsewhere
14 for a meter inspection under 410.155 also required?

15 A I see. I think I understand what you mean
16 now.

17 When I was talking about the tech
18 doing the post-installation inspection and entering
19 that data into the mobile data -- or to the mobile
20 dispatch terminal, that's the other spot. But it
21 would not show the meter accuracy like this is. This
22 is a certification of the meter accuracy before

1 installation.

2 JUDGE HILLIARD: Which document are you
3 referring to?

4 MR. NEILAN: One -- ComEd Exhibit 1.06.

5 THE WITNESS: 1.6 [SIC].

6 MR. HILLIARD: Okay.

7 BY MR. NEILAN:

8 Q So this would refer to meter data before
9 installation of the meter; is that correct?

10 A This would be the meter's accuracy
11 record --

12 Q Okay.

13 A -- before it was installed.

14 Q What record is kept of ComEd having made a
15 post-installation inspection?

16 A Well, there should a record of the -- of an
17 electronic record or some sort of record --

18 Q Either one?

19 A -- like the form that we discussed a moment
20 ago.

21 Q Paper? Computer?

22 A Could be that. Could be -- depends on when

1 it was done, but there should be a record of it
2 somewhere.

3 Q But it's not on -- it's in a different
4 database or something?

5 A Well, I know that I looked for the -- the
6 record that we're talking about here for this case,
7 and couldn't locate it. So I don't know where it
8 would be. I could not locate that record.

9 Q Okay.

10 JUDGE HILLIARD: You couldn't locate the post
11 inspection documentation?

12 THE WITNESS: I could not locate one, no.

13 JUDGE HILLIARD: Could you locate the
14 installation document?

15 THE WITNESS: What I was able to locate was the
16 installation history of the meter in question, and I
17 was able to determine what date this particular meter
18 was installed and where it was installed, the account
19 number and that. That's what I was able to retrieve
20 plus the test results from the meter in question.

21 JUDGE HILLIARD: Pre-installation.

22 THE WITNESS: Pre-installation, yes.

1 JUDGE HILLIARD: Okay.

2 MR. NEILAN: Give me just a moment I want to
3 find a reference.

4 JUDGE HILLIARD: And another course of business
5 when you install a meter, that's the data entry point
6 and that should be a retrievable record, for the
7 information that's input at that time should be
8 retrievable?

9 THE WITNESS: Yes, should be.

10 JUDGE HILLIARD: But you weren't able to in
11 this case?

12 THE WITNESS: Right. I was not able to. And
13 I'm not a hundred percent sure why, but I think it
14 had to do with the time between when it was entered
15 and when I looked for it.

16 JUDGE HILLIARD: Okay.

17 THE WITNESS: It might have migrated from the
18 database I had access to one that I didn't.

19 JUDGE HILLIARD: Okay.

20 BY MR. NEILAN:

21 Q There's a reference I'm looking to, but
22 maybe you can help me.

1 You had mentioned in your testimony, I
2 believe, that LAZ Parking should have seen a big
3 change in it's bills after the meter installation was
4 done, but whatever information was missed.

5 When this error occurred -- all right.

6 After 2007, the meter installation,
7 it's your position that LAZ Parking should have
8 noticed a big change in its bills.

9 Is that your position?

10 A I believe what I said was once the mistake
11 was rectified, or words to that effect, that they
12 would have seen their bill go up significantly. I
13 believe that's what I said.

14 Q Okay. So then you did not say that after
15 the meter was installed in 2007 -- it's not your
16 position that they should have noticed a big drop?

17 A I don't remember saying that. I don't
18 remember saying they would have noticed a rise in
19 their bill once the mistake was corrected.

20 Q As you sit here today and I ask you that
21 question, would it be your position that after
22 December 2007 when the new meter was installed, is it

1 your position that LAZ Parking should have seen a big
2 drop in their bill?

3 A I didn't catch that.

4 Q Okay. Is it your position now that after
5 2007, after the meter installation, that ComEd --
6 LAZ Parking should have seen a big drop in its
7 billing?

8 A I don't know that I would use the words
9 "should have seen," because I don't know if notices
10 went over there, but there would have been a drop in
11 their billing. What they would have noticed, I can't
12 say, or should have noticed, I can't say. I don't
13 know what their procedures are.

14 Q You didn't review the LAZ Parking billing?

15 A No.

16 Q During the time -- during your career at
17 ComEd, did you ever look at customer billing records?

18 A There have been times when I've been shown
19 and walked through some of the billing records and
20 consulted with billing people, yes.

21 Q And did you do that in connection with your
22 work in the Metering Department?

1 A Yes.

2 Q And based on your review or your
3 familiarity with ComEd bills, it's your position that
4 you would be able to make this estimate that -- or
5 make this statement that somehow LAZ bills should
6 have gone down after December 2007?

7 MS. BARRETT: The statement that you asked him
8 today because not the statement he made previously?

9 MR. NEILAN: This statement I asked him today
10 because he said -- he said he never said that their
11 bills should have gone down. He said they should
12 have noticed the bill going up.

13 THE WITNESS: Right. I've never mentioned
14 anything about them going down.

15 BY MR. NEILAN:

16 Q Okay.

17 A But in a case where I've dealt with billing
18 people, they would have -- a lot of times they'd
19 e-mail me something, the record that you're talking
20 about, and say I have a problem with this or that.
21 And they would help me understand what I'm looking at
22 because -- and then I would help them try to figure

1 out what the meter could possibly have to do what
2 we're seeing here.

3 Q Okay.

4 A And once I was aware of this issue, the
5 multiplier was already corrected. And then somebody
6 contacted me and asked me why did this go up so much.

7 Q Okay. Are you aware of how many meters
8 there are -- how many ComEd meters there are
9 installed at the LAZ Parking service location at 25
10 North Michigan?

11 A No. All I'm aware of is this one.

12 Q Did you take a look at any of the exhibits
13 to the testimony of the two LAZ Parking witnesses?

14 A Yes, I did. I looked at those.

15 Q So if a customer has eight meters and one
16 of those meters has some problem that is causing her
17 a drop in usage -- let's say the error that happened
18 here -- out of those eight meters seven are doing
19 fine, one has a problem -- is it still your position
20 that the customer should notice a significant drop
21 in billing?

22 A I never said the customer should notice

1 anything.

2 Q Okay. Or a significant increase.

3 JUDGE HILLIARD: That's been asked and answer
4 several times.

5 MR. NEILAN: Okay. Just give me just a moment.

6 BY MR. NEILAN:

7 Q You would agree with me that there are
8 several types of causes of meter error?

9 A Sure.

10 Q One can be vibration creep?

11 A Vibration creep?

12 Q Creep through vibrations.

13 If a meter is in some environment that
14 has a lot of vibration.

15 A That's the first time I've ever heard
16 anyone say that as it relates to creep.

17 MR. NEILAN: That's all the questions that I
18 have.

19 JUDGE HILLIARD: Any redirect.

20 MS. BARRETT: I believe we do, if you don't
21 mind if we could just take a two-minute break.

22 JUDGE HILLIARD: Sure.

1 (After a short recess, the
2 proceeding resumed as
3 follows:)

4 JUDGE HILLIARD: Before you get started I have
5 a quick question.

6 In Section 410.170 it talks about
7 accuracy testing of meters. And it mentions service
8 watt-hour meter and var-hour meter, then it talks
9 about demand meters.

10 Is the meter at issue here any one of
11 those meter?

12 THE WITNESS: It's a recorder meter. It can
13 function as a demand meter, but it's a recorder.

14 JUDGE HILLIARD: Okay. So a watt-hour meter is
15 not a recorder meter.

16 THE WITNESS: Right.

17 JUDGE HILLIARD: And a var-hour meter is not a
18 recorder meter?

19 THE WITNESS: Right.

20 JUDGE HILLIARD: That's all my questions.

21 MS. BARRETT: Okay. I think I have, maybe,
22 just two questions.

1 REDIRECT EXAMINATION

2 BY

3 MS. BARRETT:

4 Q You and Mr. Neilan were discussing ComEd
5 Exhibit 1.03, which is the auxil- -- Aux Inspection
6 Form.

7 Is this form related at all to meter
8 testing?

9 A No.

10 Q And you and Mr. Neilan also had a
11 discussion about 410.155, which is the Commission
12 regulations on installation inspections. And at one
13 point I think I heard you say that you are doing this
14 inspection to ensure that ComEd is accurately
15 recording customer usage; is that correct?

16 A No. I should have said "measuring customer
17 usage," not "recording."

18 MS. BARRETT: Those are all my questions.

19 JUDGE HILLIARD: So, now, tell me again about
20 this aux form. What is this for?

21 THE WITNESS: So let me pull it up and look at
22 it so I can kind of walk through this.

1 What it's for is to make sure that the
2 CTs are installed correctly and wired correctly to
3 the meter.

4 Then, when they do this inspection
5 under customer load, they're making sure -- once it's
6 hooked up correctly, the current is going to flow
7 from the top side of the meter down through the
8 bottom side of the meter if it's right. So they're
9 going to make sure the wiring is correct.

10 With this particular type of meter,
11 you could actually walk up to it and see before you
12 look at any wiring whether anything's going backwards
13 because there's a little black light that comes on
14 for each phase. There's A, B, and C, and when the
15 current is flowing through each of those phases
16 correctly, those lights are solid. And if it's
17 flowing backwards, that light flashes on and off. So
18 that would be a clue for me walking up right away
19 that there's something wrong here.

20 This was -- this Aux Inspection Form
21 is to make sure that everything is hooked up
22 properly, flowing through the meter properly. This

1 was done before we had the electronic meters that
2 we're talking about now that would tell you right off
3 the bat, Hey, I've got some backwards flow going on.
4 PI hope that helps you.

5 JUDGE HILLIARD: In terms of the timing, when
6 is this form filled out?

7 THE WITNESS: This form is filled out -- this
8 Aux Inspection Form is filled out when the second
9 tech comes out.

10 JUDGE HILLIARD: Post-installation inspection?

11 THE WITNESS: Right. That's what it is. Yes,
12 sir.

13 JUDGE HILLIARD: And this form is manually
14 filled out, and then the data that's on it gets
15 entered into a database at your truck or wherever?

16 THE WITNESS: Yes.

17 JUDGE HILLIARD: Do they keep these forms?

18 THE WITNESS: I don't know for sure if they
19 keep those forms.

20 JUDGE HILLIARD: You didn't find any in this
21 case?

22 THE WITNESS: No, I did not find a physical

1 paper form in this case.

2 JUDGE HILLIARD: All right. That's all I have.

3 You don't have any recross?

4 MR. NEILAN: No, your Honor.

5 JUDGE HILLIARD: Then I think you're excused.

6 Thank you.

7 MARISA SPITZ,

8 called as a witness herein, having been first duly

9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY

12 MS. BARRETT:

13 Q Ms. Spitz, would you state and spell your

14 full name for the record.

15 JUDGE HILLIARD: Noting that this lady was

16 sworn in this morning.

17 Go ahead.

18 BY MS. BARRETT:

19 Q Please state and spell your full name.

20 A Marisa Spitz, M-A-R-I-S-A S-P-I-T-Z.

21 Q And while this case was pending, I believe

22 you got married, and therefore changed your last

1 name?

2 A Yes.

3 Q Can you please state and spell your
4 previous last name for the record as well.

5 A Canestrini, C-A-N-E-S-T-R-I-N-I.

6 Q By whom were you employed prior to
7 retirement?

8 A ComEd.

9 Q And what was your position there?

10 A The last 20-plus years, System Billing.

11 Q And have you offered written testimony in
12 this proceeding?

13 A Yes.

14 Q I would like to draw your attention to
15 ComEd Exhibit 3.0, and that is titled Direct
16 Testimony of Marisa Spitz, Retired Billing Clerk on
17 behalf of Commonwealth Edison Company. And it
18 consists of 8 pages of questions and answers and
19 attached Exhibits 3.01 through 3.05.

20 As described, is this your Direct
21 Testimony in this proceeding?

22 A Yes.

1 Q Was it prepared by you or under your
2 direction and control?

3 A Yes.

4 Q Is it true and correct to the best of your
5 knowledge and belief?

6 A Yes.

7 Q If I were to ask you to same questions
8 today would your answers be the same?

9 A Yes.

10 MS. BARRETT: And, your Honor, Exhibit 3.0 and
11 3.01 through 3.05 were filed on eDocket on February
12 18, 2016.

13 I am going to draw your attention to
14 another document that I'd like to mark ComEd Exhibit
15 8.0, which is Attachment A to ComEd's Response to LAZ
16 Parking's Motion in Limine.

17 For the record, this document was
18 produced in discovery by ComEd on August 13, 2012, in
19 response to LAZ Parking's first set of data requests.
20 It bears the Bates numbers CCLP 0000084 through CCLP
21 0000088.

22 Ms. Spitz, do you recognize this

1 document?

2 A Yes.

3 Q Can you please explain what it is.

4 A What it is is after the marketing

5 representative, which we call the ESO -- when we find

6 an error, a constant error and it has an ESO rep on

7 it, I -- the ESO rep has to contact the company to

8 tell them what is going on. If an account does not

9 have an ESO rep, I contact the customer. In this

10 case, Tom Williams had to contact the customer to let

11 him know what was going to happen.

12 Q Is that to explain the billing error?

13 A Yes.

14 Q And so your -- that's page 84, and the

15 pages behind that, could you explain what those are?

16 A Those were different e-mails that I had

17 received because the customer wanted more

18 information. And I was trying to answer them to the

19 representative who was talking to the -- I was trying

20 to answer the senior accountant manager -- what was

21 going on.

22 Q And so you almost, sort of, answered this

1 already, but in the course of your job duties at
2 ComEd, did you draft letters and e-mails like this?

3 A Yes.

4 MS. BARRETT: That's all, your Honor.

5 JUDGE HILLIARD: You want to offer --

6 MS. BARRETT: Sure. I'd like to move ComEd 3.0
7 and 3.01 through 3.05 as well as ComEd Exhibits 8.0
8 into evidence.

9 JUDGE HILLIARD: Objections?

10 MR. NEILAN: No objections from LAZ Parking.

11 JUDGE HILLIARD: Then the exhibits will be
12 admitted.

13 (ComEd Exhibit Nos.
14 3.0, 3.01 through 3.05, and
15 8.0 were admitted into
16 evidence.

17 MS. Barrett: And I tender Ms. Spitz for
18 cross-examination.

19 CROSS-EXAMINATION

20 BY

21 MR. NEILAN:

22 Q Good afternoon, Ms. Spitz. My name is Paul

1 Neilan for LAZ Parking, and I just have a few
2 questions for you.

3 In your testimony, you refer to the
4 Meter Custom Discrepancy Report that's issued weekly.

5 Is that a computer-generated report?

6 A Yes.

7 Q Does -- is that report generated by kind of
8 a computer comparison or search of a database?

9 A To my knowledge, yes.

10 Q And that would contain information on the
11 current transformers or ratio -- current transformers
12 ratios?

13 A What that report has is it matches things
14 internally, and if there is a discrepancy, it appears
15 on the report such as this.

16 Q Okay. Is there a number of meters that are
17 checked on a weekly basis? Is that how that works?

18 A I'm assuming that they are all checked, but
19 I'm not positive because I don't generated that
20 report.

21 Q You agree the meter that's in question in
22 this case was installed in December of 2007?

1 A Yes.

2 Q At that time was the Weekly Meter
3 Discrepancy Report something that was generated?

4 A Yes.

5 Q You testified that you discovered this
6 discrepancy in 2010?

7 A Yes.

8 Q Are you aware of any reason why the meter
9 discrepancy -- there was a discrepancy that showed up
10 in 2010 -- why that would not have appeared earlier,
11 say, closer, more proximate to December of '07 or
12 early '08?

13 A I can't answer that. I don't know.

14 Q You don't know. Okay.

15 When data almost meters in current
16 transformers is collected by ComEd, either from field
17 service reps or other technicians, is it your
18 understanding that CIMS is kind of the master storage
19 place for that information?

20 A Could you repeat?

21 Q Sure.

22 When information like meter

1 multipliers and current transformer multipliers, you
2 know, and potential transformer multipliers,
3 whatever's involved in a metering installation, is it
4 your understanding that CIMS is kind of a central
5 storage place for that data?

6 MS. BARRETT: I just want to object. I'm not
7 sure because there were a lot of pieces of
8 information that you mentioned there.

9 MR. NEILAN: Yeah. Pieces of information are
10 only mentioned by way of examples because what I'm
11 trying to do is see if her understanding of CIMS as
12 kind of a master storage place for meter information
13 and billing information and current transformer
14 ratios -- billing multipliers, call them billing
15 multipliers.

16 THE WITNESS: When you say the word, "billing
17 multipliers," there is no such thing as a billing
18 multiplier per -- I don't know what you mean by
19 "billing multiplier."

20 BY MR. NEILAN:

21 Q Those would be the specific things I just
22 mentioned.

1 For example, there will be an
2 instrument transformer ratio -- or instrument
3 transformer multiplier, there would be -- there might
4 be some meter multiplier that's applicable to a
5 certain account. There are a couple of -- there are
6 many multipliers that, just like in LAZ's case, apply
7 to its billing.

8 A Are you talking about the constant? Are
9 you talking about the constant that we use to
10 multiply the usage by? Is that what you're talking
11 about?

12 Q That would be one of them, sure.

13 A The multiplier or constant is not -- is
14 just a number that appears on the account. It really
15 isn't something that you can touch.

16 Q I understand that. I'm not questioning
17 that it's an intangible.

18 What I'm asking for is that number
19 stored in CIMS kind of like a master storage place
20 where everybody said go to to find out what it is.

21 A To calculate a multiplier or a constant,
22 there is a formula that we use. And we get the

1 formula, which, I have here on my -- that I testified
2 for -- we get different pieces of it from a report,
3 and that's what we use, but that's not in CIMS.

4 When a multiplier -- when a constant
5 is put into CIMS, it is manually put in.

6 Q Okay. To your knowledge, after a meter is
7 installed, does a weekly report that you generate
8 have any focus on recently installed meters?

9 MS. BARRETT: I think she testified she doesn't
10 generate the report.

11 MR. NEILAN: No, I know. I'm just wondering if
12 the meter report itself has any purposes of doing a
13 post-installation inspection.

14 BY MR. NEILAN:

15 Q Is there any kind of recognition of meters
16 recently installed, and you need to inspect it in 90
17 days?

18 A What the report brings up is if there is a
19 constant on the meter, which is in CIMS, and it does
20 not agree with the equipment on the meter if there is
21 equipment on the meter. If the two don't match,
22 that's what is generated on the report.

1 Q Understood. Okay.

2 Have you read the testimony of Derrick

3 Moore or are you generally familiar with it?

4 A I've read it.

5 Q And you understand that he was in the field

6 and he was using a data terminal laptop to access

7 a -- I guess a computer at ComEd headquarters.

8 Was that the CIMS database that he was

9 accessing or no?

10 MS. BARRETT: I'm going to object. I think

11 you're mischaracterizing his testimony.

12 Q Okay. You work with CIMS.

13 To your knowledge, would a ComEd

14 technician who's out in the field be able to connect

15 from his laptop to CIMS to get data?

16 MS. BARRETT: I don't think this is within the

17 witness's scope.

18 JUDGE HILLIARD: She could answer if she knows.

19 MS. BARRETT: If she knows.

20 THE WITNESS: I don't even know. I've never --

21 no, I've never seen the system that a tech works on,

22 so I don't know where it connects to.

1 BY MR. NEILAN:

2 Q Okay. The question was whether someone
3 remotely could patch in.

4 Do you know if anybody could remotely
5 patch into CIMS from the field?

6 A I don't know that.

7 MR. NEILAN: All right. And that is really all
8 the questions that I had.

9 JUDGE HILLIARD: Was it the report that
10 informed you that the constant for this particular
11 meter was not what it should have been? Did you
12 check back to see whether it appeared on previous
13 reports?

14 THE WITNESS: No, I did not. I did not check
15 that because if it -- I know that I checked them
16 every week and I would have seen it if there was.
17 And I would have started working on it right away.

18 JUDGE HILLIARD: So it's your opinion -- based
19 upon your experience, is this is probably the first
20 time that this account was flagged for an improper
21 constant?

22 THE WITNESS: Yes.

1 JUDGE HILLIARD: Do you know why that would be?

2 THE WITNESS: When?

3 JUDGE HILLIARD: Why.

4 THE WITNESS: No. That, I do not know why.

5 JUDGE HILLIARD: Would it require some action

6 by some other employee to input that number or input

7 the information so that this account would be

8 flagged?

9 THE WITNESS: Could you repeat that again.

10 JUDGE HILLIARD: The first time it shows up is

11 in 2010?

12 THE WITNESS: Yes.

13 JUDGE HILLIARD: And in your estimation, it

14 wasn't flagged before that time or you would have

15 noticed it.

16 THE WITNESS: Correct.

17 JUDGE HILLIARD: So my question is does a

18 change in the information about the account like that

19 constant, does there have to be some -- someone would

20 have to input something for that to happen.

21 THE WITNESS: Yes, I'd would think so.

22 Because, otherwise, I don't know why it never

1 appeared before.

2 JUDGE HILLIARD: Okay. Thank you.

3 Anybody else?

4 MR. NEILAN: I have no recross for the witness.

5 JUDGE HILLIARD: Further direct?

6 MS. BARRETT: Sorry, no, I do not have

7 redirect. I do have a couple other housekeeping

8 issues.

9 JUDGE HILLIARD: All right. Is that -- were

10 there any more exhibits?

11 MS. BARRETT: No. Although, that is one of the

12 housekeeping issues, is to admit the other two by

13 affidavit.

14 JUDGE HILLIARD: Okay. And do you have any

15 further evidence?

16 MR. NEILAN: Yes. We have the other affidavit

17 for the direct panel testimony of the LAZ Parking

18 witnesses.

19 JUDGE HILLIARD: Right.

20 MR. NEILAN: I have one of the affidavits. The

21 other person --

22 JUDGE HILLIARD: Is the mic on?

1 MR. NEILAN: Oh, I'm sorry. Is it that one
2 there? I'm sorry.

3 I have one of the affidavits, but the
4 other person's traveling. So he's going to get that
5 to me.

6 JUDGE HILLIARD: Okay. We will hold the record
7 open until you can get that in.

8 All right. So, maybe, ComEd can go
9 first in terms of the affidavits.

10 MS. BARRETT: Sure. And I guess I have another
11 question, too, is that this Exhibit 8.0 was not
12 prefiled. Would you like us to file it on eDocket?

13 JUDGE HILLIARD: Yes.

14 MS. BARRETT: Then also --

15 JUDGE HILLIARD: And your cross exhibits.

16 MS. BARRETT: Yes.

17 JUDGE HILLIARD: If you don't do that, then you
18 have to give us three paper copies.

19 MS. BARRETT: Okay. So I would like to move
20 for the admission of ComEd Exhibit 2.0, which is the
21 Direct Testimony of Derrick Moore and contains
22 Exhibits 2.01, 2.02, and 2.03, as well as ComEd

1 Exhibit 4.0, which is the Direct Testimony of
2 Trishaun Jamison, and it contains ComEd Exhibits
3 4.01, 4.02, 4.03, 4.04, 4.05, and 4.06, as well as
4 their affidavits, which I believe are ComEd Exhibits
5 6.0 for Mr. Moore and 7.0 for Ms. Jamison.

6 JUDGE HILLIARD: Did we admit your cross
7 exhibits already?

8 MS. BARRETT: We did, yes.

9 JUDGE HILLIARD: Which cross exhibits did we
10 admit?

11 MS. BARRETT: We only did No. 2.

12 JUDGE HILLIARD: Okay. Objections?

13 MR. NEILAN: No objections from LAZ Parking.

14 JUDGE HILLIARD: All of the ComEd exhibits
15 referenced by Counsel will be admitted into the
16 record.

17 (ComEd Exhibit Nos 2.0, 2.01
18 through 2.03, 4.0, 4.01
19 through 4.06, 6.0, and 7.0
20 were admitted into the
21 record.)

22 JUDGE HILLIARD: Go ahead.

1 MR. NEILAN: So we'll get that affidavit as
2 soon as that arrives.

3 JUDGE HILLIARD: And why don't you tell me, do
4 you have a number for it?

5 MR. NEILAN: Yes. It is 4.1, I believe. Hang
6 on.

7 JUDGE HILLIARD: Do you have to another
8 exhibit?

9 MR. NEILAN: It's on my list.

10 Okay. It is Exhibit -- LAZ Exhibit
11 4.1, and it's the affidavit of Tony -- Antonio
12 DiPaolo.

13 JUDGE HILLIARD: Did you have another exhibit
14 you wanted to admit today?

15 MR. NEILAN: There is Exhibit 4.3, but based on
16 the testimony and cross-examination from Mr. Rumsey,
17 I'm going to withdraw that one, and I won't be
18 admitting that one. I don't need it. So I'll file
19 an amended exhibit list.

20 MS. BARRETT: I think he means the affidavit
21 from the panel that you do have.

22 MR. NEILAN: Oh, I'm sorry. Yes, there is an

1 affidavit.

2 Yeah, Stuart Vieth. This is his part
3 of the panel testimony for LAZ Exhibit 1.0 and LAZ
4 Exhibits 1.1 through 1.5. Mr. Vieth's affidavit
5 itself is LAZ Exhibit 4.2, and this was filed on
6 eDocket, I believe on Monday -- yesterday.

7 JUDGE HILLIARD: Did we already admit 1.0
8 through 1.5?

9 MR. NEILAN: I don't think we've admitted 1.0
10 through 1.5 because I only have the one affidavit so
11 far.

12 JUDGE HILLIARD: Okay.

13 MR. NEILAN: But nothing is going to change.
14 The affidavits of the two witnesses certify that
15 nothing is changing.

16 JUDGE HILLIARD: All right. Do you have any
17 other exhibits that haven't been admitted.

18 MR. NEILAN: No, I do not.

19 JUDGE HILLIARD: All right. So do you have any
20 objections to any of his exhibits.

21 MS. BARRETT: No objection. Although, I do
22 have a question.

1 You said you had -- that you're
2 withdrawing an exhibit? Is that one that was
3 prefiled?

4 MR. NEILAN: On the list -- no. On my list
5 there is an Exhibit 4.3, which was a copy of PepCo
6 bill from June of 2010.

7 MS. BARRETT: But it was not prefiled? I've
8 never seen it?

9 MR. NEILAN: It's not prefiled, no. I was --

10 MS. BARRETT: You're not just not offering it?

11 MR. NEILAN: I'm not offering because when we
12 did the cross-examination it turned out not to be
13 relevant.

14 JUDGE HILLIARD: All right. Exhibit 1.0
15 through 1.5, and Exhibit 4.2 will be admitted into
16 the record. Exhibit 4.1 is going to be a late-filed
17 exhibit that's going to be admitted after it's filed
18 on eDocket.

19 (LAZ Parking Exhibit Nos. 1.0
20 through 1.5 and 4.2 were
21 admitted into the record.)

22 JUDGE HILLIARD: And subject to the filing, is

1 there anything else that I have to hold the record
2 open for?

3 (No response.)

4 JUDGE HILLIARD: All right. Subject to the
5 late filing of the Exhibit 4.1, the record will be
6 marked heard and taken.

7 Anything else? You want to discuss
8 posttrial briefs?

9 MR. NEILAN: We should.

10 MS. BARRETT: We didn't discuss that amongst
11 ourselves yet. Would you like us to do that?

12 MR. NEILAN: Do you have a schedule?

13 JUDGE HILLIARD: I'm going to be gone April 1st
14 through April 12th.

15 I'll give you a couple minutes.

16 (After a short recess, the
17 proceeding resumed as
18 follows:)

19 MS. BARRETT: The parties have agreed on
20 April 21st for simultaneous initial briefs, May 13th
21 for simultaneous reply briefs, and May 20th for
22 position statements.

1 JUDGE HILLIARD: With that, subject to
2 receiving the late-filed exhibit, the record will be
3 marked heard and taken.

4 HEARD AND TAKEN.

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